

European Union



European Agency for Reconstruction



EUROPEAN CENTRE
FOR
MINORITY ISSUES



MINORITY ISSUES MAINSTREAMING

A PRACTICAL GUIDE FOR EUROPEAN AGENCY FOR RECONSTRUCTION
PROGRAMMES

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European Agency for Reconstruction

The European Agency for Reconstruction is responsible for the management of the main EU assistance programmes in the Republic of Serbia (including UN-administered Kosovo), the Republic of Montenegro and the former Yugoslav Republic of Macedonia.

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Thessaloniki/Flensburg
June 2006



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Foreword

In June 2005, EAR requested from ECMI a proposal for a training workshop on minority mainstreaming issues for EAR operational centres in Serbia and Montenegro, UN-administered Kosovo and the former Yugoslav Republic of Macedonia. ECMI, with its special area of expertise on minority-majority relations, and extensive experience in South East Europe, was well placed to become a partner for EAR. Based on the previous positive experience on gender mainstreaming, EAR and ECMI developed a training programme to introduce, train and assist EAR staff in the relevant inclusion of key minority issues into EAR sectoral reconstruction and rehabilitation programmes. An initial manual was prepared to introduce minority mainstreaming at the workshops. As a result of detailed discussions, the manual was revised and adapted to the practical needs of EAR staff in programming, project implementation and reporting.

This manual, to act as a training guide and reference material, shall provide an overview of specific minority issues in South East Europe. It should not be compared to the toolkit provided for other cross-cutting EAR issues, such as gender equality.

This manual begins with an overview of the legal mechanisms for the protection of minority rights in South East Europe, and examines some other development programmes in the region. This is followed by country analyses for Serbia, Montenegro, UN-administered Kosovo and the former Yugoslav Republic of Macedonia, highlighting EAR priority areas. As the manual was prepared before the referendum in Montenegro on separation from the Union, information on federal institutions may no longer be relevant. The replacement institutions are not yet in place in the Republic of Serbia and the Republic of Montenegro. Section three addresses project work: developing ToRs and minority issues in the project cycle. A glossary of key terms in the field of minority issues is included at the end.

The European Centre for Minority Issues wishes to thank the following ECMI staff for their contributions to the development of this manual:

Michelle Armstrong, Florian Bieber, Denika Blacklock, Ewa Chylinski, Nick Jones, Kata Eplenyi, Jonathan Grundman, Erika Lencses, Tove H. Malloy, Haruko Matsuo, Vladislav Michalcik, and Ulrike Schmidt.

ECMI highly appreciates EAR staff engagement and comments during training workshops and beyond, especially assistance and support rendered by Louis Charpentier.

Acronyms

AC	Advisory Committee
AOC	Advisory Office on Communities
CARDS	Community Assistance for the Reconstruction, Development and Stabilisation
CERD	Committee on the Elimination of Racial Discrimination
CoE	Council of Europe
DFID	Department for International Development
DG I	Directorate General of Legal Affairs, European Commission
DG II	Directorate General of Human Rights, European Commission
DG III	Directorate General of Social Cohesion, European Commission
DH-MIN	Committee of Experts on Issues relating to the Protection of National Minorities
EAR	European Agency for Reconstruction
EC	European Community
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECMI	European Centre for Minority Issues
ECRML	European Charter for Regional or Minority Languages
EDIHR	European Initiative for Democracy and Human Rights
EEC	European Economic Community
EU	European Union
FCNM	Framework Convention for the Protection of National Minorities
FTA	Free Trade Agreements
fYROM	former Yugoslav Republic of Macedonia
HCNM	High Commissioner on National Minorities
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of all Forms of Racial Discrimination
IDP	Internally Displaced Persons
MIP	Multi-annual Indicative Programme
NAPs	National Action Plans
NGO	Non-governmental Organizations
OCA	Office of Community Affairs
ODIHR	Office for Democratic Institutions and Human Rights
OHCHR	Office of the High Commissioner for Human Rights

OSCE	Organization for Security and Co-operation in Europe
PISG	Provisional Institutions of Government
PSB	Public Service Broadcasters
RBES	Regional Bureau for Europe and CIS (Commonwealth of Independent States)
SAA	Stabilisation and Association Agreements
SAP	Stabilization and Association process
SEE	South East Europe
TEC	Treaty Establishing the European Community
UMCOR	United Methodist Committee on Relief
UN	United Nations
UNICEF	United Nations Children's Fund
UNMIK	United Nations Mission in Kosovo
UNDP	United Nations Development Programme
UNSC	United Nations Security Council
USAID	United States Agency for International Development

Preface

This manual is part of an ongoing effort by the European Agency for Reconstruction to mainstream minority issues (as well as gender equality) within its projects and programmes. The Agency is sensitive to the fact that the inclusion and participation of minorities and vulnerable groups in development is an important prerequisite for economic growth, equitable prosperity, political stability and peace in the region. This manual is intended to help staff designing Agency programmes and projects to identify the conceptual and empirical links between minority issues, EU and international legal commitments, public policies and development outcomes.

In the 1990s, the political and economic crisis in the former Yugoslavia exacerbated the exclusion of minorities from effective participation in economic life. During the transition to market-based economies, minorities continued to suffer disproportionately from high levels of unemployment and weakened social welfare structures, while experiencing marginalisation from the decision-making process. The degree of exclusion of minorities, refugees and internally displaced persons from economic participation differs according to ethnic groups, economic and social sectors, as well as countries, with the exception of the Roma, who suffer from almost full exclusion across the whole region.

Minority inclusion and participation can be tackled from various perspectives: human rights, empowerment and development effectiveness. Within the *human rights* approach, all individuals, regardless of their ethnicity, should be treated equally in the economy, in politics, under the law, and in society. The *empowerment* approach recognises the need to expand the choices and control that people have over their own lives. Evidence shows indeed that societies discriminating by ethnicity (and/or gender) hinder their ability to develop and to reduce poverty, while the active participation of all (whether in education, employment, or governance) contributes consistently to a more effective development. Overall, mainstreaming minority issues will help us deliver better projects and more sustainable assistance to the region.

This manual starts from a comprehensive view of EC and international commitments to minority protection, highlighting how minority inclusion is a key element for the democratic consolidation and economic reform, which are enshrined in the Stabilisation and Association Process (Section 1). While minorities are extremely vulnerable to poverty and economic exclusion throughout

Southeast Europe, the manual proposes to focus on their specific needs in the countries and entities where the Agency operates. It identifies those sectors within EAR priority areas where minority issues are insufficiently integrated and where an appropriate response strategy should be implemented (section 2). The manual provides a number of tools and hints for including minority issues at various stages of the operational cycle as well as within specific well-established tools like project fiches and terms of reference (section 3). Finally, the Manual offers a glossary of terms related to minority issues.

This practical guide was consolidated on the basis of an exchange of views between ECMI and EAR staff during a training session (Thessaloniki, November 2005) in order to tailor it to the Agency needs. It was designed to complement the European Commission Toolkit on mainstreaming gender equality already in use at the EAR. The information provided in this manual should be used in conjunction with the Gender Toolkit, so as to gain a more systematic and detailed understanding on the procedure of mainstreaming cross-cutting issues within the operational cycle, and also because mainstreaming gender and minorities issues should not be perceived as competing but as complementary approaches.

Louis Charpentier
Adviser for Monitoring and Social Development
European Agency for Reconstruction

1. Introduction: Minorities in Europe

There is no doubt that Europe is an ethnically diverse continent and that there are few, if any, countries in which there are no population groups with an ethnic identity distinct from that of the country's titular nation. The area of confusion, however, concerns who constitutes an ethnic or national minority, where such minorities live, how many of them there are and how many members they have.

1.1 A Difficult Definition:

Minorities and majorities alike exhibit different combinations of certain features – language, religion, traditions and customs, etc. What makes an ethnic group a minority is a numerically and politically non-dominant position in the state of which they are citizens. Members of ethnic minorities identify with their group's unique features and, in most circumstances, are recognised by other members of the group. It is widely acknowledged that ethnic group membership is an individual's own decision rather than something to be determined by the state.

Minorities are groups “numerically inferior to the rest of the population of a state, in a non-dominant position, whose members – being nationals of a state – possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show if only implicitly a sense of solidarity directed towards preserving their culture, traditions, religion, or language.”

Francesco Capotorti,
UN Sub-Commission on Prevention of
Discrimination and Protection of Minorities

However, this does not mean that those who consider themselves a member of a minority group are officially recognised as such. For example, France, Greece and Turkey do not recognise minorities within their countries. Most European countries, however, accept that their societies are multi-ethnic, and acknowledge that ethnic and national minorities are a constituent part of their nation. Many countries have committed to the protection of minorities and have translated international obligations into domestic policy securing the rights of minorities. In the case of the four countries/provinces examined in this ‘toolkit’, the **former Yugoslav Republic of Macedonia** does not define minorities, but refers to ‘communities not in the majority’ in the constitution; while in **UN-administered Kosovo** minorities are not defined, but the Constitutional Framework makes mention of ‘communities.’ The 2002 Law on the Protection of Rights and Freedoms of National Minorities in **Serbia and Montenegro** provides a definition of minorities – “a national minority is

a group of citizens...possessing some distinctive features, such as language, national or ethnic belonging, origin or religion, upon which it differs from the majority of the population, and its members should show their concern over preservation of their common identity, including culture, tradition, language or religion.” (Article 2). Although this is a Federal/State Union law, it is not recognized in Montenegro, so is in practice applicable only in Serbia. However, the Constitution of Montenegro does refer to members of national and ethnic groups, but does not define them.

Further complications arise when one differentiates between national and ethnic minorities. A national minority is a group within one state that has a kin-state (for example, Croats in Serbia, or Russians in Ukraine). An ethnic minority is a group which may or may not have a kin-state (for example, Roma or Sorbs). This can cause a problem for ethnic groups without a kin state, such as the Ashkalija, which are often grouped with Roma, or conversely with Egyptians, who have a kin-state, but which does not act in defence of their rights. This differentiation, however, is usually overlooked in the application of legal mechanisms for the protection of ‘national minorities,’ (like the Framework Agreement on the Protection of National Minorities) to include ALL ethnic minority groups in a state.

1.2 Key Issues for Analyzing Minorities in Europe:

1.2.1 Minority Rights and Non-discrimination

When discussing minorities, one has to be aware of the *difference* between minority rights and non-discrimination. The principle of non-discrimination aims at ensuring equality, whereas minority rights foster the preservation of diversity. While the former ensures the right to equality, i.e., the removal all obstacles to the enjoyment of equal rights (negative rights), the latter safeguards the preservation of identity, or, in other words, the right to diversity. Thus, guaranteeing minority rights requires permanent positive state action in support of the minority group (positive rights). Non-discrimination is sufficiently defined internationally and is internationalized at the EU-level. Yet, minority rights are not generally accepted and have been absent from the *acquis communautaire*. The prohibiting of discrimination can only be regarded as the first step on the way to full protection of national minorities.

1.2.2 Equal Socio-economic Opportunities and Discrimination

Members of minorities face widespread socio-economic disadvantages in access to housing, public services, healthcare, education and training, as well as employment.

This disadvantage results from direct and indirect discrimination, language barriers, lack of citizenship or other status and lack of recognition of the right to culture. The overarching problem in seeking to include disadvantaged minorities in **mainstream** society is, however, usually dealt with in a piecemeal rather than holistic manner in terms of access to culture. In spite of standards adopted at both international and state levels, members of minorities continue to suffer exclusion. Major development organizations (e.g., the World Bank, UNDP and regional development banks), as well as state aid agencies and NGOs, address discrimination of minorities.

Although many major development organizations address discrimination problems, states are seen as ultimately responsible for the protection of human rights. Universal human rights standards are expressed through the domestic law of states and, particularly in states establishing or returning to democratic rule, the effective realization of those laws generally requires a national institution to safeguard people's rights.

1.2.3 Participation in Public Life

Most of the EU member states are also parties to the Council of Europe's 1998 Framework Convention for the Protection of National Minorities (FCNM)¹, which specifically requires signatory states to ensure minority participation in all parts of public life. The former Yugoslav Republic of Macedonia and Serbia and Montenegro both entered the FCNM into force in 1998 and 2001 respectively. A number of countries in Europe also have constitutional provisions pertaining to the right of particular national minorities to participate in public life. Minorities should have the possibility of forming political parties, be represented in the national parliament and have a voice in political affairs, in particular those affecting them. They should also be (proportionally) represented in the labour market (as well as have access to media and education, as mentioned before).

1.2.4 Identity and Language

Violations of human rights and fundamental freedoms continue to endanger stability and threaten security in many regions in the world. These restrictions may be a direct result of state legislation and policies, or in other cases, they may arise as a result of a lack of protective action from state authorities, often in the face of a dominant religious majority. Language is an important instrument for the construction of a distinct identity and as a factor of social cohesion. At the same time, language problems are the most visible in the treatment of minorities. Particular emphasis is laid on the implications of the right of minority members to identity, including

1. See: <http://conventions.coe.int/Treaty/en/Treaties/Word/157.doc> for the full Convention.

rights concerning the minority language, such as the use of mother tongue in private and in public, and the right to mother tongue education.

1.2.5 Education and Culture

Education and culture are the most effective means of ethnic reproduction. Education can forestall the rooting of prejudices, intolerance and xenophobia and the emergence of discriminatory behaviour.

Therefore, in multiethnic societies education should promote the knowledge of the culture, history, language and religion of their national minorities and of the majority. Education can play a crucial role in promoting integration within ethnically mixed communities. However, children from minority groups often do not attend school. Early employment, isolation, poor security, prejudice and a lack of awareness among government and local authorities are the main reasons for the poor attendance among children from minority groups. Even for children willing and able to go to school, entry is often difficult because they have had little or no primary education. Therefore, access to mainstream education and the possibility to catch up with the ethnic majority is important for the integration of ethnic minorities.

1.2.6 Media

The media are again an effective vehicle for the promotion of tolerance and intercultural dialogue, mutual respect and cooperation between different ethnic communities sharing the same territory. Therefore, persons belonging to national minorities shall have the unhindered possibility to create and use their own media “in order to promote tolerance and permit cultural pluralism”, as stated in the Framework Convention for National Minorities (Art. 9, Para. 3 - 4).

1.3 Specific Aspects of Minority Issues in South East Europe:

1.3.1 Romani Integration/Inclusion

Of all issues related to minorities, Romani integration is one of the most prominent. Estimates of the size of the Romani population in Eastern and South East Europe vary widely. Under communism, most states in the region officially denied the existence of Romani ethnicity while counting ‘Gypsies’ as members of a backward social group according to criteria specified by the state. Consequently, official figures on the Romani population were usually produced on the basis of ascription by state officials, rather than from the declarations of those being counted.

In light of the stigma associated with classification as a ‘Gypsy’ since well before the communist period, the collapse of communism has in many cases led to a steep drop in the number of persons declaring Romani nationality relative to the number of persons classified as ‘Gypsies’ under the previous regime. A consequence of this underestimation of the size of the Romani population is that proportional indicators such as birth rates, fertility, family size, and criminality among Roma are often overestimated.

Notwithstanding considerable variation in the degree to which Roma are integrated in the individual states of post-communist Eastern Europe, even in the cases of best practice with regard to Roma in the region, it must be kept in mind that Roma invariably constitute the most disadvantaged ethnic group in countries that remain relatively disadvantaged themselves.

Throughout the region, Roma have the lowest rates of school attendance and the highest dropout rates, resulting in extremely low levels of educational attainment. This creates a vicious circle, combining incomplete enjoyment of civil rights on the one hand with high unemployment on the other. Whereas, in the former case, lack of knowledge about civil rights contributes to suspicion of ongoing violations of those rights and the perception that Roma are powerless to do anything about such violations so that becoming informed is futile, in the latter case the lack of occupational qualifications resulting from a low level of educational attainment leads to unemployment and thus to material conditions not conducive to the completion of education.

1.3.2 Statistics/Data Collection

Accurate documentation on the existence of ethnic and national minorities is a prerequisite for the formulation of good government policy and fundamental to the task of promoting human rights and minority rights, especially the right to non-discrimination. However, data collection on ethnic and national minorities is often largely inadequate or non-existent. First, governments are often unaware or unwilling to collect such data. Indeed, the constitutions of many European countries forbid data collection on the basis of racial and ethnic characteristics. Other times data protection laws are interpreted so as to hinder collection. Second, members of minorities often mistrust the ability of governments to maintain the confidentiality of data collected on the basis of ethnic classification and thus fear that it will be used to their detriment and result in negative stereotyping. Finally, it is important that the quality of the data collected is of such a standard that the minorities included in these statistics feel that their identities are fairly represented.

1.3.3 Population Movements

Given the unrest in South East Europe over the past 15-20 years, and particularly with the outbreak of war in 1991, the movement of peoples and especially large populations of ethnic groups has affected access to rights, standard of living and the overall status of minority groups in the region. In many cases, minority groups have moved to kin-states (e.g., Croats in Serbia), however most remaining IDPs and refugees are those groups who are minorities in the country which they wish to return to. Given the nature of their reason for leaving their homes in the first place, return is now predicated on security, freedom of movement and access to services such as education, employment and health care. These issues continue to plague both returnees and central and municipal governments who must respond to international pressure and interethnic relations on the ground.

This ‘manual’, designed as a handbook to act as a training guide and reference material, shall provide an overview of these and other minority issues. It should not be compared to the toolkit provided for other cross-cutting EAR issues, as in the gender training.

The first section is designed to familiarize the reader with concepts and mechanisms for the protection of minorities in Europe.

Section two provides a needs analysis of minorities in four South East European countries/provinces: Serbia, Montenegro, UN-administered Kosovo and the former Yugoslav Republic of Macedonia; and includes resources on minority issues within each country.

The third section takes the reader on a step-by-step guide to mainstreaming minority issues into the project cycle.

Finally, a glossary of commonly used terms and phrases in the area of minority rights and issues explains the terminology and meaning of language used in the field of minority issues.

We hope you find this handbook a useful guide in your day-to-day work.

ECMI, Flensburg, June 2006

MINORITY ISSUES MAINSTREAMING



INTRODUCTION

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GLOSSARY

LEGAL COMMITMENTS AND POLICY AREAS

Key Definitions:

- Advisory and consultative bodies
- Convention for the Protection of Human Rights and Fundamental Freedoms
- Copenhagen Criteria
- EC Treaty
- Effective participation/minority participation
- European Charter for Regional and Minority Languages (ECRML)
- European Integration Partnerships
- Framework Convention for the Protection of National Minorities (FCNM)
- High Commissioner on National Minorities
- International Covenant on Civil and Political Rights (ICCPR)
- Non-discrimination/anti-discrimination
- Social Inclusion Programmes
- Stability Pact for South East Europe
- Stabilization and Association Process (SAp)

1. Commitments to Minority Participation: Regulatory/Policy Frameworks

1.1 Overview

Minority participation in social, economic and political life has been an objective of the wider European society since the early 1990s, and combating non-discrimination based on ethnicity and race is enshrined in the EC Treaty and the 2000 Charter of Fundamental Rights and Freedoms of the European Union (EU).

In addition, most EU member states are also parties to the **Council of Europe's 1995 Framework Convention for the Protection of National Minorities**, which specifically requires signatory states to ensure minority participation in all parts of public life. A number of countries in Europe also have constitutional provisions pertaining to the right of particular national minorities to participate in public life.

This chapter will discuss **international standards of minority rights and participation**, and will present the legal commitments and policy programmes on minority participation made by the EU for both internal and external application.

1.2 International Legal and Semi-legal Instruments

The international legal framework for minority participation and minority rights² has been under construction since World War II. The framework includes legal documents and advisory recommendations adopted by:

- United Nations (UN)
- Council of Europe (CoE)
- Organization for Security and Co-operation in Europe (OSCE)

2. For a succinct overview of the international legal framework, see: United Nations High Commissioner for Human Rights (2001). *United Nations guide for Minorities*. Available at: <http://www.unhchr.ch/html/racism/01-minoritiesguide.html>; for a more thorough treatment see: Pentassuglia, Gaetano (2002). *Minorities in International Law*. ECMI-Council of Europe Minority Issues Handbook Series 1. Strasbourg: Council of Europe Publishing.

SECTION ONE

1.2.1 Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)³

The Convention was the first legal non-discrimination provision adopted by the Council of Europe in 1950.

Article 14

*The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, **association with a national minority**, property, birth or other status.*

This Article has since been amended by **Protocol 12** to the Convention stipulating that **signatory states may adopt positive measures** in order to secure the rights under the Article⁴.

The Convention allows **individuals and groups to send complaints to the European Court of Human Rights in Strasbourg** and is thus a powerful remedy for members of national and other minorities. Petitions to the Court are only accepted if they have not achieved satisfaction in the domestic system from which they originated⁵.

3. See <http://conventions.coe.int/treaty/en/Treaties/Html/005.htm>. Ratified by Macedonia on 10 April 1997 and by Serbia and Montenegro on 3 March 2004.

4. Text of Protocol available at <http://conventions.coe.int/treaty/en/Treaties/Html/177.htm>

5. For description of petition procedure, see <http://www.echr.coe.int/ECHR/EN/Header/The+Court/Procedure/Basic+information+on+procedures/>

1.2.2 International Convention on the Elimination of all Forms of Racial Discrimination (ICERD)⁶ (1965)

The UN continued the non-discrimination approach in 1965 when it adopted the **International Convention on the Elimination of all Forms of Racial Discrimination (ICERD)**.

The ICERD's Article 1 specifically stipulates that:

*The term “**racial discrimination**” shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or **national or ethnic origin** which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.*

The ICERD prohibits racial discrimination in all its forms and requires states party to the Convention to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law.

The ICERD is monitored by a reporting system executed by the **Committee on the Elimination of Racial Discrimination (CERD)**. **States must submit reports on the legislative, judicial, administrative or other measures** which they have adopted and which give effect to the provisions of the ICERD every two years or whenever the CERD requests. The CERD reports annually, through the Secretary General, to the General Assembly of the UN on its activities and makes suggestions and general recommendations based on the examination of the reports and information received from the states. Reports that are examined by the CERD are available through the minutes of the meetings of the CERD⁷.

The former Yugoslav Republic of Macedonia submitted a report under the ICERD in 1997⁸. **Serbia and Montenegro** have not submitted reports as the

6. See http://www.unhchr.ch/html/menu3/b/d_icerd.htm. In force in FYRM since 22 December 1999 and in Serbia and Montenegro since 27 June 2001.

See <http://www.unhchr.ch/pdf/report.pdf>

7. See <http://www.unhchr.ch/html/menu2/6/cerd/cerds.htm>

8. See [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/8a55ecc64ff41960802564c20036f45b?](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/8a55ecc64ff41960802564c20036f45b?Opendocument)

Opendocument

successor state to Yugoslavia, but a report and addendums were submitted by Yugoslavia in 1997, 1998, and 1999 ⁹.

Article 14 of the ICERD establishes a procedure that makes it possible for an individual or a group of persons claiming to be **the victim of racial discrimination to lodge a complaint with the CERD against the state** concerned. This may only be done if the state is a party to the ICERD and has declared that it recognizes the competence of the CERD to receive such complaints.

The state's party to the complaints procedure must establish a body within their national agencies appointed to receive and evaluate the complaints in confidentiality. The relevant offices **do not exist in Serbia and Montenegro** yet. In the **former Yugoslav Republic of Macedonia**, the Ombudsman is responsible for complaints.

Former Yugoslav Republic of Macedonia

Ombudsman Office

Address: Dimitrie Chupovski Street 2,

1000 Skopje

Phone: 02 3129 /335 or /359 or /327

E-mail: ombuds1@mt.net.mk

Complaints submitted directly to the CERD should be addressed to:

Mail: Petitions Team

Office of the High Commissioner for Human Rights

United Nations Office at Geneva

1211 Geneva 10, Switzerland

Fax: + 41 22 917 9022 (particularly for urgent matters)

E-mail: tb-petitions@ohchr.org

1.2.3 International Covenant on Civil and Political Rights (ICCPR) ¹⁰

In 1966, **the first provision** specifically addressing minorities was **adopted by the United Nations in the ICCPR, Article 27:**

9. See [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/bbbaa63f760ec361802565980060beb3?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/bbbaa63f760ec361802565980060beb3?Opendocument)

10. See <http://www.ohchr.org/english/law/ccpr.htm>. Entered into force in FYRM on 18 January 1994 and in Serbia and Montenegro on 12 March 2001.

Article 27

*In those States in which **ethnic, religious or linguistic minorities** exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.*

Although the Covenant has been ratified by most UN member states¹¹, some countries have made declarations to the effect that Article 27 does not have jurisdiction in their territory.¹² The Covenant is monitored by the Human Rights Committee under the UN that follows the implementation of the Covenant in member states through a reporting system. It does not have a court.

The Committee also receives written complaints from individuals and adopts decisions on these, which are submitted to the relevant member state for enforcement.

Complaints must not be anonymous and cannot be considered unless they come **from a person or persons subject to the jurisdiction of a state that is a party to the Covenant**. Normally, the individual who claims that his or her rights have been violated by the State should send in a communication. When it appears that the alleged victim is unable to submit the complaint, the Committee may consider a communication from another person who must prove that he or she is acting on behalf of the alleged victim. A third party with no apparent link to the person whose rights have allegedly been violated cannot submit a complaint.

The complaint cannot be considered if the same problem is being investigated under another international procedure, and **all domestic remedies must have been exhausted before the Committee can take it up**.

Even before deciding whether a complaint is admissible or not, the Committee - or its Working Group on Communications - may ask the alleged victim or the State concerned for additional information or comments and set a time limit. If the State has anything to say at this stage, the person complaining receives a copy of its reply for comment.¹³

11. As of September 2005, 154 states had ratified the Covenant. These former Yugoslav Republics succeeded from Yugoslavia as follows: FYRM, 17 September 1991; Serbia and Montenegro, 27 April 1992; and Bosnia and Herzegovina, 6 March 1992.

12. Such a declaration has been made by France.

13. For full procedure, see <http://www.ohchr.org/english/bodies/petitions/index.htm> (general) or, <http://www.ohchr.org/english/bodies/petitions/individual.htm> (individual). More information about the Committee at: <http://www.ohchr.org/english/about/publications/docs/fs15.pdf>.

*1.2.4 Declaration of the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*¹⁴

In 1992¹⁵, **the UN adopted** this fairly short but comprehensive document on minority rights, in response to the end of the Cold War and subsequent increased attention to minority conflicts. Note Articles 1 and 2:

Article 1

- 1. States shall protect the existence and the national or **ethnic, cultural, religious and linguistic identity of minorities** within their respective territories and shall encourage conditions for the promotion of that identity.*
- 2. **States shall adopt appropriate legislative and other measures** to achieve those ends.*

Article 2

- 1. Persons belonging to national or **ethnic, religious and linguistic minorities** (hereinafter referred to as persons belonging to minorities) have the right to enjoy their **own culture**, to profess and practice their own **religion**, and to use their own **language**, in private and in public, freely and **without interference or any form of discrimination**.*
- 2. Persons belonging to minorities have **the right to participate effectively in cultural, religious, social, economic and public life**.*
- 3. Persons belonging to minorities have **the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority** to which they belong or the regions in which they live, in a manner not incompatible with national legislation.*
- 4. Persons belonging to minorities have the right to establish and maintain **their own associations**.*
- 5. Persons belonging to minorities have **the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group and with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States** to whom they are related by national or ethnic, religious or linguistic ties.*

This Declaration **does not have legally binding status, nor does it have a monitoring system or a court.**

.....
14. See http://www.unhchr.ch/html/menu3/b/d_minori.htm

15. Adopted by UN General Assembly Resolution 47/135 of 18 December 1992 without a vote.

1.3 European Legal and Semi-Legal Instruments

1.3.1 European Charter for Regional and Minority Languages¹⁶

The Council of Europe's Charter for Regional and Minority Languages aims to protect and promote the historical regional or minority languages of Europe. It was adopted in 1992 in order to maintain and develop Europe's cultural traditions and heritage, as well as to respect the inalienable and commonly recognized right to use a regional or minority language in private and public life.

The Charter enunciates **objectives and principles that Parties undertake to apply to all the regional or minority languages spoken within their territory:** respect for the geographical area of each language; the need for promotion; the facilitation and/or encouragement of the use of regional or minority languages in speech and writing, in public and private life (by appropriate measures of teaching and study, by trans-national exchanges for languages used in identical or similar form in other States).

Furthermore, the Charter sets out a number of specific measures **to promote the use of regional or minority languages in public life.** These measures cover the following fields: education, justice, administrative authorities and public services, media, cultural activities and facilities, economic and social activities and trans-frontier exchanges.

Enforcement of the Charter is under control of a committee of experts that periodically examines reports presented by the parties to the instrument. The committee of experts

Council of Europe
European Charter for Regional or Minority Languages
Directorate of Co-operation for Local and
Regional Democracy
Directorate General of Legal Affairs - DG I
F-67075 Strasbourg Cedex, France
Tel: +33 (0) 88 41 31 86
Fax: +33 (0) 88 41 27 84
E-mail: DG1.Minlang@coe.int

adopts rules of procedure and receives periodical reports every third year. Reports are made public¹⁷. The committee is assisted by a secretariat.

16. See <http://conventions.coe.int/Treaty/EN/Treaties/Html/148.htm>. Signed but not ratified by FYRM on 25 July 1996 and signed but not ratified by Serbia and Montenegro on 22 March 2005.

17. For reports, see http://www.coe.int/t/e/legal_affairs/local_and_regional_democracy/regional_or_minority_languages/2_Monitoring/Monitoring_table.asp#TopOfPage.

1.3.2 *Framework Convention for the Protection of National Minorities (FCNM)* ¹⁸

This Convention, adopted in 1994 and opened for signature in 1995, is **the first legally binding multilateral instrument concerned with the protection of national minorities in general**. It aims to protect the existence of national minorities within the respective territories of the states parties to the Convention. It seeks **to promote the full and effective equality of national minorities** by creating appropriate conditions enabling them to preserve and develop their culture and to retain their identity.

The Convention sets out principles relating to persons belonging to national minorities in the sphere of public life, such as: freedom of peaceful assembly; freedom of association; freedom of expression; freedom of thought, conscience and religion; access to the media as well as freedoms relating to language, education, trans-frontier co-operation, etc. It is the most comprehensive legally binding instrument in the area of minority rights and participation in Europe. It has been ratified by 37 Council of Europe member states as well as non-member states.

Most member states of the EU have signed and ratified the Framework Convention.

a. **FCNM Monitoring Process**

The Framework Convention is monitored by an Advisory Committee (AC) which receives country reports and issues opinions and recommendations to the decision making body of the Council of Europe, the Committee of Ministers. The AC meets in Strasbourg and is assisted by a Secretariat:

Council of Europe
 Directorate General of Human Rights - DG II
 Secretariat of the Framework Convention for the Protection of National Minorities ¹⁹
 and of the DH-MIN
 F - 67075 Strasbourg Cedex
 Tel +33 (0) 3 90 21 44 33
 Fax +33 (0) 3 90 21 49 18
 E-mail: minorities.fcnm@coe.int

18. See <http://conventions.coe.int/Treaty/EN/Treaties/Html/157.htm>. Entry into force in FYRM on 1 February 1998 and in Serbia and Montenegro on 1 September 2001.

19. For the Secretariat homepage, see: http://www.coe.int/T/E/Human_Rights/Minorities/1._GENERAL_PRESENTATION/Contacts%20E.asp#TopOfPage.

The AC also makes visits upon invitation to the states party to the Convention. These visits are considered an important part of the dialogue on minorities between the Council of Europe and the member states and are described in the Activity Reports of the AC.²⁰

States that are parties to the Framework Convention prepare the country reports according to an outline issued by the AC and with input from civil society and NGOs. In many states, members of civil society and NGOs also produce a “**shadow**” report. These are also supposed to follow the outline issued by the AC. The monitoring process is currently in its second cycle of reports. All reports become publicly available and many are translated into the language of the reporting state.²¹ These reports often provide an excellent source on the situation of minorities in the various states.

The former Yugoslav Republic of Macedonia submitted a report on 23 September 2003,²² **Serbia and Montenegro** on 16 October 2002,²³ and Bosnia and Herzegovina on 20 February 2004.²⁴ **UNMIK** submitted a report on behalf of **UN-administered Kosovo** on 2 June 2005. For the local agencies responsible for writing the reports, see under ICCPR above.

.....
20. For the Activity reports issued by the AC, see [http://www.coe.int/T/e/human_rights/Minorities/2._FRAMEWORK_CONVENTION_\(MONITORING\)/3._Advisory_Committee/3._Activity_reports/index.asp#TopOfPage](http://www.coe.int/T/e/human_rights/Minorities/2._FRAMEWORK_CONVENTION_(MONITORING)/3._Advisory_Committee/3._Activity_reports/index.asp#TopOfPage).

21. Reports and opinions are available at [http://www.coe.int/T/e/human_rights/Minorities/2._FRAMEWORK_CONVENTION_\(MONITORING\)/2._Monitoring_mechanism/3._State_Reports_and_UNMIK_Kosovo_Report/1._First_cycle/List%20of%20State%20Reports.asp#TopOfPage](http://www.coe.int/T/e/human_rights/Minorities/2._FRAMEWORK_CONVENTION_(MONITORING)/2._Monitoring_mechanism/3._State_Reports_and_UNMIK_Kosovo_Report/1._First_cycle/List%20of%20State%20Reports.asp#TopOfPage) -reports [http://www.coe.int/T/E/human_rights/minorities/2._FRAMEWORK_CONVENTION_\(MONITORING\)/2._Monitoring_mechanism/4._Opinions_of_the_Advisory_Committee/1._Country_specific_opinions/1._First_cycle/List%20of%20Opinions.asp#TopOfPage](http://www.coe.int/T/E/human_rights/minorities/2._FRAMEWORK_CONVENTION_(MONITORING)/2._Monitoring_mechanism/4._Opinions_of_the_Advisory_Committee/1._Country_specific_opinions/1._First_cycle/List%20of%20Opinions.asp#TopOfPage) - opinions

22. Macedonia report available at [http://www.coe.int/T/E/human_rights/Minorities/2._FRAMEWORK_CONVENTION_\(MONITORING\)/2._Monitoring_mechanism/3._State_Reports_and_UNMIK_Kosovo_Report/1._First_cycle/PDF_1st_SR_FYROM.pdf](http://www.coe.int/T/E/human_rights/Minorities/2._FRAMEWORK_CONVENTION_(MONITORING)/2._Monitoring_mechanism/3._State_Reports_and_UNMIK_Kosovo_Report/1._First_cycle/PDF_1st_SR_FYROM.pdf)

23. Serbia and Montenegro report available at [http://www.coe.int/T/E/human_rights/minorities/2._FRAMEWORK_CONVENTION_\(MONITORING\)/2._Monitoring_mechanism/3._State_Reports_and_UNMIK_Kosovo_Report/1._First_cycle/1st_SR_FRY.asp#TopOfPage](http://www.coe.int/T/E/human_rights/minorities/2._FRAMEWORK_CONVENTION_(MONITORING)/2._Monitoring_mechanism/3._State_Reports_and_UNMIK_Kosovo_Report/1._First_cycle/1st_SR_FRY.asp#TopOfPage)

24. Bosnia and Herzegovina report available at [http://www.coe.int/T/E/human_rights/minorities/2._FRAMEWORK_CONVENTION_\(MONITORING\)/2._Monitoring_mechanism/3._State_Reports_and_UNMIK_Kosovo_Report/1._First_cycle/1st_SR_BiH.asp#TopOfPage](http://www.coe.int/T/E/human_rights/minorities/2._FRAMEWORK_CONVENTION_(MONITORING)/2._Monitoring_mechanism/3._State_Reports_and_UNMIK_Kosovo_Report/1._First_cycle/1st_SR_BiH.asp#TopOfPage)

The AC issued an opinion on the Former Yugoslav Republic of Macedonia on 27 May 2004,²⁵ on Serbia and Montenegro on 27 November 2003,²⁶ Bosnia and Herzegovina on 27 May 2004,²⁷ and UN-administered Kosovo on 25 November 2005.²⁸

“Shadow reports” were submitted for the **former Yugoslav Republic of Macedonia** in 1999, 2001 and 2004,²⁹ and for **Serbia and Montenegro** in 2003.³⁰

b. How EAR officials can collaborate in and benefit from the process of FCNM monitoring:

- Data from the country reports to the FCNM and the subsequent opinions issued by the AC and the recommendations of the Council of Ministers can be used **as a source of information on minority participation and lack thereof at country level** and can be incorporated into programme documentation;

25. Opinion available at [http://www.coe.int/T/E/human_rights/minorities/2._FRAMEWORK_CONVENTION_\(MONITORING\)/2._Monitoring_mechanism/4._Opinions_of_the_Advisory_Committee/1._Country_specific_opinions/1._First_cycle/1st_OP_FYROM.asp#TopOfPage](http://www.coe.int/T/E/human_rights/minorities/2._FRAMEWORK_CONVENTION_(MONITORING)/2._Monitoring_mechanism/4._Opinions_of_the_Advisory_Committee/1._Country_specific_opinions/1._First_cycle/1st_OP_FYROM.asp#TopOfPage)

26. Opinion available at [http://www.coe.int/T/E/human_rights/minorities/2._FRAMEWORK_CONVENTION_\(MONITORING\)/2._Monitoring_mechanism/4._Opinions_of_the_Advisory_Committee/1._Country_specific_opinions/1._First_cycle/1st_OP_SAM.asp#TopOfPage](http://www.coe.int/T/E/human_rights/minorities/2._FRAMEWORK_CONVENTION_(MONITORING)/2._Monitoring_mechanism/4._Opinions_of_the_Advisory_Committee/1._Country_specific_opinions/1._First_cycle/1st_OP_SAM.asp#TopOfPage)

27. Opinion available at [http://www.coe.int/T/E/human_rights/minorities/2._FRAMEWORK_CONVENTION_\(MONITORING\)/2._Monitoring_mechanism/4._Opinions_of_the_Advisory_Committee/1._Country_specific_opinions/1._First_cycle/1st_OP_BiH.asp#TopOfPage](http://www.coe.int/T/E/human_rights/minorities/2._FRAMEWORK_CONVENTION_(MONITORING)/2._Monitoring_mechanism/4._Opinions_of_the_Advisory_Committee/1._Country_specific_opinions/1._First_cycle/1st_OP_BiH.asp#TopOfPage)

28. Opinion available at [http://www.coe.int/T/e/human_rights/Minorities/2._FRAMEWORK_CONVENTION_\(MONITORING\)/2._Monitoring_mechanism/4._Opinions_of_the_Advisory_Committee/1._Country_specific_opinions/1._First_cycle/1st_OP_Kosovo_eng.asp#TopOfPage](http://www.coe.int/T/e/human_rights/Minorities/2._FRAMEWORK_CONVENTION_(MONITORING)/2._Monitoring_mechanism/4._Opinions_of_the_Advisory_Committee/1._Country_specific_opinions/1._First_cycle/1st_OP_Kosovo_eng.asp#TopOfPage)

29. 1999 by Helsinki Committee, see http://www.minelres.lv/reports/macedonia/macedonia_NGO.htm; in 2001 by ADI, see http://www.minelres.lv/reports/Macedonia_NGO1.htm; in 2004 by Working Group for Minority Issues, see http://www.minelres.lv/reports/Macedonia_NGO2.pdf

30. 2003 by Humanitarian Law Center, see http://www.minelres.lv/coe/report/FRY_NGO.htm; in 2003 by Center for Multiculturalism and by Voivodina Center for Human Rights, see http://www.greekhelsinki.gr/bhr/english/articles/fcnm_alt_rep.doc

- Discussion of **progress made in addressing issues raised** in the opinions should feature in political dialogue with partners at state level in the context of developing programme documents;
- “Shadow” reports written by local civil society groups and NGOs **should serve as a complementing tool in terms of aiding data collection**, providing capacity building and training on the FCNM and minority issues as well as general information about minority participation and rights.

1.4 Organization for Security and Co-operation in Europe (OSCE)

The OSCE was the first international organization to explicitly address the issue of national minority rights and participation after the events of 1989. In the Concluding Document to the Conference on the Human Dimension in 1990 in Copenhagen, the organization adopted the so-called Copenhagen Document³¹ whose Part IV (Articles 30 through 40) set out a number of conditions and requirements on national minority rights and the rights of Roma groups.

In 1992, at the Helsinki meeting, the decision to establish a **High Commissioner on National Minorities (HCNM)** was taken. The mandate of the HCNM is purely diplomatic. He or she is to work on preventing conflicts and sound early warnings.

1.4.1 High Commissioner on National Minorities (HCNM) ³²

The first HCNM was appointed by the OSCE in 1992 **to monitor the security situation in OSCE member states where national minorities were perceived a risk to peace and stability** both within the relevant state and in the neighbouring states as well as in the entire region. **The HCNM has a mandate to intervene through diplomacy and thus is not in the position to issue legal documents or opinions.** S/he is entitled to send letters of concern to member states’ governments and to issue country and thematic recommendation on the basis of documents elaborated by experts on minority issues.

The HCNM has issued the following **thematic recommendations**:³³

- The Hague Recommendations regarding the **Education Rights of National Minorities** (1996)

31. <http://www.minelres.lv/osce/cope90e.htm>

32. See <http://www.osce.org/hcnm>

33. Available at <http://www.osce.org/hcnm/documents.html>

- The Oslo Recommendations regarding the **Linguistic Rights of National Minorities** (1998)
- The Lund Recommendations on **the Effective Participation of National Minorities** in Public Life (1999)
- Report and Recommendations on **the Situation of Roma and Sinti** in the OSCE Area (2000)
- The Warsaw Guidelines to assist **National Minority Participation** in the Electoral Process (2001)
- Guidelines on the use of **Minority Languages in the Broadcast Media** (2003)
- Recommendations on **Policing in Multi-Ethnic Societies** (2006)

Recommendations are not legally binding on states, nor do they have a monitoring system. However, there is wide spread agreement in the international community that the Recommendations are morally binding on states and **hold a strong normative leverage with states wishing to become members of the EU.**

*1.4.2 The Lund Recommendations*³⁴

The Lund Recommendations have **particular relevance for development co-operation in the Balkans** as the OSCE has one of the strongest international representations in the region with many country offices. The purpose of the Lund Recommendations is to encourage and facilitate the adoption of specific measures by states to alleviate tensions related to national minorities. The Recommendations are divided into four sub-headings which group the twenty-four recommendations into **(1) general principles, (2) participation in decision-making, (3) self-governance, and (4) ways of guaranteeing such effective participation in public life.** The basic conceptual division of the Recommendations addresses (a) participation in governance of the State as a whole, and (b) self-governance over certain local or internal affairs.

The General Principles stipulate among others that:

- a. Effective participation of national minorities** in public life is an essential component of a peaceful and democratic society.
- b. States have a duty to respect internationally recognized human rights and the rule of law**, which allow for the full development of civil society in conditions of tolerance, peace, and prosperity.

.....
34. http://www.osce.org/documents/hcnm/1999/09/2698_en.pdf

c. Institutions established to ensure the effective participation of minorities in public life, which can include the exercise of authority or responsibility by such institutions, must respect the human rights of all those affected.

d. Individuals identify themselves in numerous ways in addition to their identity as members of a national minority. The decision as to whether an individual is a member of a minority, the majority or neither, rests with that individual and shall not be imposed upon her or him. Moreover, **no person shall suffer any disadvantage as a result of such a choice or refusal to choose.**

e. When creating institutions and procedures both substance and process are important. **Governmental authorities and minorities should pursue an inclusive, transparent, and accountable process of consultation in order to maintain a climate of confidence.** The State should encourage the public media to foster intercultural understanding and address the concerns of minorities.

Specifically, in the area of participation in decision-making, the Recommendations concentrate on (a) arrangements at the level of central government, (b) elections, (c) arrangements at the regional and local levels, and (d) advisory and consultative bodies.³⁵

Advisory and consultative bodies are of particular concern to development co-operation as they address a broad variety of issues in society, including infrastructure, social aspects of diversity, etc.:

- States should establish advisory or consultative bodies within appropriate institutional frameworks to serve as channels for dialogue between governmental authorities and national minorities. Such bodies might also include special purpose committees for addressing such issues as housing, land, education, language and culture. The composition of such bodies should reflect their purpose and contribute to more effective communication and advancement of minority interests.
- These bodies should be able to raise issues with decision makers, prepare recommendations, formulate legislative and other proposals, monitor developments and provide views on proposed governmental decisions that may directly or indirectly affect minorities. Governmental authorities should consult these bodies regularly regarding minority-related legislation and administrative measures in order to contribute to the satisfaction of minority concerns and to the building of confidence. The effective functioning of these bodies will require that they have adequate resources.

35. For relevant bodies in EAR co-operation states, see Section 2.

1.5 The European Community Approach

In order to ensure minority participation, the EU has first and foremost decided to focus on combating discrimination within the 25 member states, also referred to as the European Community (EC). **As this aspect of minority participation has become binding on EU member states, it is also relevant for accession and candidate member states and must be taken into consideration in its development co-operation programmes.** The basic principles of the EU anti-discrimination approach are stated in **the Treaty Establishing the European Community**³⁶ :

Article 13

*1. Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, **the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.***

2. By way of derogation from paragraph 1, when the Council adopts Community incentive measures, excluding any harmonization of the laws and regulations of the Member States, to support action taken by the Member States in order to contribute to the achievement of the objectives referred to in paragraph 1, it shall act in accordance with the procedure referred to in Article 251.

In the following paragraphs, information will inter alia be provided on:

- a. The main EC commitments to mainstreaming minority non-discrimination and inclusion, namely the **“Race Directive” Council Directive 2000/43/EC**, the relevant article in **the Charter of Fundamental Rights and Freedoms**, and the **“Equal Employment Directive” Council Directive 2000/78/EC**;
- b. The key **articles in the EC Treaty** and statements on promoting democracy and the rule of law, including human rights, minority rights and fundamental freedoms in accession countries, the **Copenhagen Criteria** and the **Thessaloniki Declaration**;

36. See http://europa.eu.int/eur-lex/lex/en/treaties/dat/12002E/pdf/12002E_EN.pdf

c. Minority provisions in co-operation with accession states: the Regulation on developing and consolidating democracy and the rule of law, and to that of respecting human rights and fundamental freedoms in third countries, **European Initiative on Democracy and Human Rights (EIDHR)**; the **Stability Pact for South Eastern Europe**; and the **Community Assistance for the Reconstruction, Development and Stabilisation (CARDS) Programme**.

1.5.1 Anti-Discrimination

The primary document committing EU member states and accession states to combat discrimination within the EC area is the so-called “**Race Directive**” **Council Directive 2000/43/EC (29 June 2000)**,³⁷ implementing the **principle of equal treatment** between persons irrespective of **racial or ethnic origin**. The purpose of this Directive is to lay down a framework for combating discrimination on the grounds of racial or ethnic origin, with a view to **putting the principle of equal treatment into effect in the member states**.

Seeking to fulfill this objective, the **EU member states must commit to promoting equality** in a number of areas of **public life**. These include:

- a. **Access to employment and self-employment** and to occupation, including setting out equal selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including promotion criteria;
- b. **Access** to all types and to all levels of **vocational guidance**, vocational training, advanced vocational training and retraining, including practical work experience;
- c. **Equal employment and working conditions**, including dismissals and pay;
- d. **Equal right to membership** of and involvement in an **organization of workers or employers**, or any organization whose members carry on a particular profession, including the benefits provided for by such organizations;
- e. **Access to social protection**, including social security and healthcare;
- f. **Equal social advantages**;
- g. **Access to education**;
- h. **Access to and supply of goods and services** that are available to the public, including housing.

37. See http://europa.eu.int/eur-lex/pri/en/oj/dat/2000/L_180/L_18020000719en00220026.pdf

To comply with the Directive **member states can:**

- a. **Adopt positive measures** where it is deemed that such measures are needed **to prevent or compensate for disadvantages linked to racial or ethnic origin;**
- b. Introduce measures that are more favourable to the protection of the principle of equal treatment than those laid down in the Directive.

Member states are required among others to:

- a. **Ensure** that where the rights of the members of ethnic minorities are violated that these individuals have **access to legal help and defence, remedies and information about their rights;**
- b. **Engage in social dialogue** among employers and members of minorities; and
- c. **Encourage dialogue with non-governmental organizations** (NGOs).

To document compliance **member states must:**

- a. **Enact laws;**
- b. **Devise sanctions;** and
- c. **Report to the European Commission** every 5 years.

1.5.2 Charter of Fundamental Rights and Freedoms ³⁸

The Charter further enshrines the EU's anti-discrimination effort. **Although the Charter of Fundamental Rights is not legally binding,** the European Commission has nevertheless established a **Network of Independent Experts to monitor the Charter.** The Network issues Annual Reports and Thematic Comments and is very active in commenting on minority rights and inclusion.

In the **Report for 2003,** the Network included a substantial comment on **“The Protection of Minorities in the European Union”** which in addition to addressing minority issues within EU member states provides excellent information about minority rights and problems.³⁹

Article 21 of the Charter, which deals specifically with non-discrimination, is not yet legally binding on member states or accession states but would be so once the Treaty Establishing a Constitution for Europe is ratified and in force.

.....
38. See http://europa.eu.int/comm/external_relations/human_rights/doc/charter_364_01en.pdf

39. See http://europa.eu.int/comm/justice_home/cfr_cdf/doc/thematic_comments_2005_en.pdf

Article 21

Non-discrimination

1. **Any discrimination based on any ground** such as sex, race, color, **ethnic** or social origin, genetic features, **language**, religion or belief, political or any other opinion, **membership of a national minority**, property, birth, disability, age or sexual orientation shall be prohibited.

2. Within the scope of application of the Treaty establishing the European Community and of the Treaty on European Union, and without prejudice to the special provisions of those Treaties, **any discrimination on grounds of nationality shall be prohibited.**

1.5.3 The Lisbon Strategy

With the prospect of stagnation in economic growth at the end of 1990s, the European Council adopted in 2000 a new strategy seeking economic, social and environmental renewal in member states' overall development. Under the so-called Lisbon Strategy, a stronger economy will drive job creation alongside social and environmental policies that ensure sustainable development and social inclusion.

The primary document **committing EU member states to equal treatment in employment is the Council Directive 2000/78/EC (27 November 2000)**,⁴⁰ which establishes a general framework for equal treatment in employment and occupation. This Directive follows the Race Directive closely in purpose and aim, and in addition to ethnic origin, it includes religion, disability and age as reasons that should not impede a person's right to work.

Thus, a major aim of the **Lisbon Strategy** is to expand the labour market, and a key policy under the Lisbon Strategy is the **Social Agenda**⁴¹ that includes the Social Inclusion Programme initiated in support of the Lisbon Strategy.

The Social Inclusion Programme⁴² constitutes the EU's largest effort so far on making member state societies more inclusive, especially regarding immigrants and ethnic minorities as well as other disadvantaged groups. One of the six key priority areas of the Social Inclusion Programme **is to reduce poverty and social**

40. See http://europa.eu.int/comm/employment_social/news/2001/jul/directive78ec_en.pdf.

41. Social Policy Agenda, COM(2000)379 final of 28 June 2000.

42. See http://europa.eu.int/comm/employment_social/social_inclusion/index_en.htm.

exclusion of immigrants and ethnic minorities, including the Roma.⁴³ In terms of the Roma minority, there has been a significant policy approach by the European Parliament that has recently passed resolution on the situation of the Roma in the European Union.⁴⁴

The Social Inclusion Programme focuses heavily on **better access to employment for members of minorities**, and **the European Employment Guidelines**, issued by the Directorate for Employment and Social Affairs, emphasize the **importance of making employment sectors more inclusive of migrants and ethnic minorities.**⁴⁵ Specifically, the Guidelines hold that:

Special attention should be paid to promoting the inclusion of disadvantaged people in the labour market, through the expansion of social services and the social economy. The unemployment gaps for people at a disadvantage, as well as between non-EU and EU nationals, remain too high and should be substantially reduced in line with any national targets. Combating discrimination, promoting access to employment and **integrating migrants and minorities are particularly essential.**

A strong component of the Social Inclusion Programme is the encouragement of member states **to improve the conditions for members of Roma and Sinti minorities.** Especially in the new member states is there pressure on governments to create better living conditions and greater participation for members of Roma and Sinti minorities.

Under the Social Inclusion Programme member states are required to adopt **National Action Plans (NAPs)** addressing exclusion at all levels of society. The EU has indicated that member states that lack funding for this priority can receive funding through its various programmes, such as:

- a. The European Social Fund
- b. The EQUAL Programme
- c. The European Structural Funds.

For accession and candidate states, the regional programmes will fund Social Inclusion policies.

43. Joint report by the Commission and the Council on Social Inclusion, 7101/04 of 5 March 2004 and Report on Social Inclusion. An analysis of the National Action Plans on Social Inclusion (2004-2006) submitted by the 10 new Member States, February 2005

44. See [http://www.europarl.eu.int/registre/seance_pleniere/textes_adoptes/definitif/2005/04-28/0151/P6_TA\(2005\)0151_EN.pdf](http://www.europarl.eu.int/registre/seance_pleniere/textes_adoptes/definitif/2005/04-28/0151/P6_TA(2005)0151_EN.pdf)

45. Integrated Guidelines for Growth and Jobs, 2005-2008

1.6 The European Accession Approach

The European Accession Approach ➔ *Section 1.3 of EC SAp for South East Europe Annual Report 2004*

Countries that wish to become member states must adhere to certain standards ➔ *Section 1 of CARDS Regional Strategy Paper 2002-2006* and abide by certain conditions. These core principles are enumerated in the Treaty Establishing the European Union (TEU)⁴⁶ as:

Article 49

Any European State that respects the principles set out in Article 6(1) may apply to become a member of the Union. It shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the assent of the European Parliament, which shall act by an absolute majority of its component members.

Article 6

*1. The European Union is founded on the principles of liberty, democracy, **respect for human rights and fundamental freedoms**, and the rule of law, principles which are common to the Member States.*

Human rights are understood here to include minority rights, as the EU requires its member states to adhere to the general **human rights regime adopted at the international level**. In the new Constitution for Europe, this phrase will be changed to include minority rights. ➔ *Section 3.1 of EC SAp for South East Europe Annual Report 2004*

1.6.1 Copenhagen Criteria

The principles upon which the EU bases its co-operation with accession states are the so-called “**Copenhagen Criteria**” adopted by the European Council in 1993.⁴⁷ These criteria include a number of conditions which accession and candidate states will have to comply with if they wish to become members of the EU, including:

- **Stability of institutions guaranteeing democracy, the rule of law, human rights** ➔ Chapter 3 of EC Gender Toolkit and respect for and protection of minorities; ➔ *Section 1.2.6 of CARDS MIP 2005-2006*

46. http://europa.eu.int/eur-lex/lex/en/treaties/dat/12002M/pdf/12002M_EN.pdf

47. Available at http://europa.eu.int/scadplus/glossary/accesion_criteria_copenhagen_en.htm

- The existence of a **functioning market economy** as well as the capacity to cope with competitive pressure and market forces within the Union;
- The ability to take on the obligations of membership including **adherence to the aims of political, economic and monetary union**.⁴⁸

1.6.2 *Thessaloniki Declaration* → *Section 1.3. of CARDS MIP 2005-2006*

In 2003, the EU adopted the **Thessaloniki Declaration** → **Section 1.1.1 of CARDS MIP 2005-2006** that prepared the Balkan states for a new era of rapprochement to the EU.⁴⁹ **Minority rights** figure prominently in the very first section of that statement:

We all share the values of democracy, the rule of law, respect for human and minority rights, solidarity and a market economy, fully aware that they constitute the very foundations of the European Union. Respect of international law, inviolability of international borders, peaceful resolution of conflicts and regional co-operation are principles of the highest importance, to which we are all committed. We vigorously condemn extremism, terrorism and violence, be it ethnically, politically or criminally motivated.

1.6.3 *European Initiative for Democracy and Human Rights*

Combating racism, xenophobia, and discrimination against minorities has been identified as a thematic and funding priority for the **European Initiative for Democracy and Human Rights (EIDHR)**. The Initiative was adopted by **Council Regulation (EC) No 976/1999 (29 April 1999)**,⁵⁰ laying down the requirements for the implementation of Community operations, other than those of development cooperation, which, within the framework of Community cooperation policy, contribute to the **general objective of developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms** in third countries.

Specifically **with regard to minorities**, the Regulation stipulates that the programmes funded by the Initiative most focus on those discriminated against or suffering

48. See <http://europa.eu.int/comm/enlargement/intro/criteria.htm>

49. See Press release 10229/03 (Presse 103), “EU-Western Balkans Summit – Declaration” of 21 June 2003. <http://europa.eu.int/comm/enlargement/see/decl.htm>.

50. See http://europa.eu.int/eur-lex/pri/en/oj/dat/1999/l_120/l_12019990508en00080014.pdf.

from poverty or disadvantage, children, women, refugees, migrants, **minorities**, displaced persons, **indigenous peoples**, prisoners and victims of torture.⁵¹

1.6.4 Stability Pact for South Eastern Europe

The Stability Pact adopted in 1999 furthermore **imposes certain obligations on the states that have signed up to this instrument**.⁵² Among the core objectives of the Pact are:

- Bringing about mature democratic political processes, based on free and fair elections, grounded in the rule of law and **full respect for human rights and fundamental freedoms, including the rights of persons belonging to national minorities**, the right to free and independent media, legislative branches accountable to their constituents, independent judiciaries, combating corruption, deepening and strengthening of civil society; ➔ *Section 2 of CARDS Regional Strategy Paper 2002-2006*
- **Preserving the multinational and multiethnic diversity of countries in the region, and protecting minorities.**

The working programmes that are developed to achieve these objectives are **co-ordinated by the European Commission and World Bank**. They jointly chair a High-Level Steering Group in which the **finance ministers of the G8** countries and the country holding the EU presidency work together with the representatives of international financial institutions and organizations and **the Special Coordinator of the Stability Pact**.

The economic assistance includes a programme on democratisation and human rights which is destined to pursue:

- Democratisation and human rights including **the rights of persons belonging to national minorities**; ➔ *Chapter 1 – Section 1.1.2 of EC Gender Toolkit*
- Free and independent media;
- Civil society building;
- Rule of law and law enforcement; institution building; ➔ *Section 1 and 2 of CARDS MIP 2005-2006*
- Efficient administration and good governance;
- Development of common rules of conduct on border related questions;
- Other related questions of interest to the participants;

51. Information about the EDIHR procedures can be found on the EuropeAid website at <http://europa.eu.int/comm/europeaid/projects>.

52. See <http://www.stabilitypact.org/constituent/990610-cologne.asp>.

Specific objectives for 2006 are:

- a. **Parliamentary Co-operation**, including: promotion of harmonization of legislation with EU standards, strengthening the links between committees of different parliaments dealing with same issues, training and capacity building of parliamentarians and supporting regional parliamentary co-operation from the SEE countries;
- b. **Local Democracy and Cross-Border Co-operation**, ➔ *Section 3 of CARDS MIP 2005-2006* including development of effective local democracy institutions, implementation of legislation on local governance, capacity building and awareness raising on decentralization; further enforcement of the dialogue between all parties concerned ensuring the participation of civil society;
- c. **Energy and other Regional Infrastructure**, including promotion of regional strategic approach, by both the countries of the region and the international community, to infrastructure development based on co-financing and institutionalized partnership, with a view to prioritizing capital investment;
- d. **Trade, Investment and Employment**, including the fostering of a business climate conducive to investment, trade and employment, through enhancing regional co-operation in policy development, implementation and promotion and improving the functioning of free trade agreements;
- e. **Fighting organized crime and corruption**, including cooperation among SEE governments and with the EU and other international partners, and between networks of public prosecutors, legislators, and the judiciary and law enforcement officials;
- f. **Managing and stabilizing population movements**, including refugee return, addressing brain drain, limited freedom of movement within the region as well as with the EU, thorough support to the Migration, Asylum, Refugee Regional Initiative (MARRI) and its networks and forums;

Information about programme procedures can be found on the Stability Pact website at <http://www.stabilitypact.org/about/default.asp>.

1.7 Evaluation of Minority Participation Mainstreaming

The European Commission has not commissioned any **evaluations of the implementation of minority participation mainstreaming per se in development co-operation**, but a **2001 Thematic Evaluation on activities in the field of Human Rights, Democracy and Good Governance** addresses:

- a. Recent global assessments of **EU human rights activities**;
- b. EU co-operation with the Council of Europe and of the European Initiative for Democracy and Human Rights;
- c. Difficulty of establishing priorities between the large numbers of objectives covered by HRD;
- d. Value of positive actions, funded from budget lines;
- e. Difficulty of establishing and maintaining a sufficient degree of expertise on HRD in the Commission;
- f. Importance of deploying specialist personnel in certain delegations with a regional HRD mandate, organizing specific training for Commission staff dealing with HRD and ensuring more field visits are possible;⁵³

1.8 Major Donor Initiatives in South East Europe

1.8.1 The World Bank

Under the auspices of **the Stability Pact programme**, the World Bank implements a regional programme, the **Social Development Initiative for South East Europe** which aims to provide the Governments of South East Europe, the donor community involved in the region, and in particular the World Bank with the capacity to carry out **social analyses, promote institution building, and launch pilot projects to address inter-ethnic tensions and social cohesion issues in South East Europe**. ➔ *Section 4.2 of CARDS Regional Strategy Paper 2002-2006*

The main objective of the Social Development Initiative for South East Europe is to jump-start the design of policies and programs that:

- a. Support social cohesion through the improved integration of ethnic minorities, marginal groups and groups affected by war; and
- b. Reduces social tensions at the country and regional level; advice to SEE governments and donors is provided in this process.

53. See http://europa.eu.int/comm/europeaid/evaluation/reports/sector/951613_synth.pdf

Italy's Development Cooperation has been the primary donor and active partner. Other European donors (i.e., DFID, the Swiss Agency for Development and Cooperation, and private foundations) have also expressed interest in the initiative.⁵⁴

The Social Development Group of the Bank's Europe Environmentally and Socially Sustainable Division manages the initiative. The initiative is overseen by a steering committee of participating donors. The Committee meets at least once a year to discuss the yearly program and the results of the performed activities. In the World Bank, a committee representing the Country Directors of the concerned countries as well as the Sector Directors and Sector Managers most concerned with social cohesion issues are advising the team managing the initiative and deciding on the specific work program.

Counterparts in recipient countries are relevant ministries such as Construction and Reconstruction, Economic Coordination and Trade, Labour and Social Policy, Youth, or Councils of Ministers, depending on the specific activities to be carried out, including:

- Agency for Youth and Sports, Former Yugoslav Republic of Macedonia
- Ministry of Labour and Social Affairs, **former Yugoslav Republic of Macedonia**
- The United Nations Interim Administration Mission in Kosovo (UNMIK)

The initiative is being implemented in collaboration with **the Directorate General III-Social Cohesion⁵⁵ of the Council of Europe and the CoE Development Bank⁵⁶**, and field activities are implemented in close collaboration with local partners that have the responsibility to carry out specific analysis or manage pilot projects, including:

- Catholic Relief Services
- Department of Culture, Sports and Youth of the Prizren Municipality, **UN-administered Kosovo**
- International Child Development Initiatives, Leiden, The Netherlands
- RIINVEST, Institute for Development Research, **Pristina**
- Search for Common Ground, **Skopje**

54. See <http://lnweb18.worldbank.org/ECA/ECSSD.nsf/ECADocByUnid/0821258F759122B085256B8F00659095?Opendocument&Start=1&Count=10>.

55. Directorate website http://www.coe.int/T/E/Social_cohesion/

56. Development bank website <http://www.coebank.org/homeen.htm>

- The Federation of Roma organizations and the Albanian League of Women in the **former Yugoslav Republic of Macedonia**, The International Network for Europe and the Balkans, the University of London School of Slavonic and East European Studies
- United Nations Children's Fund (UNICEF)

Officers in charge at the World Bank according to country assignment are:

Serbia and Montenegro

Miroslav Ruzica, Social Scientist
mruzica@worldbank.org

UN-administered Kosovo

Tais Nezam, Social Development Specialist
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Bosnia and Herzegovina

Patrizia Poggi, Social Development Operations Analyst
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Former Yugoslav Republic of Macedonia

Vittorio Masoni, Consultant
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Elena Galliano, Consultant; Regional Applied Social Development and Policy Network, and the Macedonia Children and Youth Development Project
egalliano@worldbank.org

1.8.2 The Decade for Roma Inclusion

The World Bank also initiated in February 2005 **the Decade of Roma Inclusion**⁵⁷ **together with the Open Society Institute**. The Programme is set to run from 2005 to 2015 and has four **priority areas: education, employment, health and housing; and two crosscutting areas; gender and non-discrimination**. Under **the Roma Education Fund**, special attention is given to the role of education in combating the Roma's complex marginalization.

57. See http://www.soros.org/initiatives/roma/focus_areas/decade.

The governments of Bulgaria, Croatia, the Czech Republic, Hungary, the **former Yugoslav Republic of Macedonia**, Romania, **Serbia and Montenegro**, and Slovakia **have signed up to the Decade's Action Plan**. Unfortunately, the participation of Roma in the designing, drafting and implementation remains unsatisfactory and very little funds are in fact allocated.

The Western Balkan team at UNDP:

Moises Venancio, Team Leader and Senior Programme Manager for Serbia-Montenegro including **UN-administered Kosovo**.
moises.venancio@undp.org

Nori Shimomura, Programme Manager responsible for Bosnia-Herzegovina and the **former Yugoslav Republic of Macedonia**.
norimasa.shimomura@undp.org

Josy Philogene, Programme Associate responsible for administrative support

1.8.3 United Nations Development Programme (UNDP)

The UNDP's efforts in the Western Balkans centre on **small arms reduction, local governance, border communities, and economic growth**. UNDP has no specific minority programme for the Balkans but its Minorities Initiatives in Bulgaria, which **aims to address Roma development** through including the Roma in job creation projects; general education and awareness thorough advocacy; increased social integration; and education and health assistance. Such initiatives are indicative of the organization's devotion to **minority participation mainstreaming**.

UNDP's presence in the Western Balkans includes six Country Offices that develop and manage the programmes at the country level. UNDP's Western Balkans team, based in RBEC/New York, supports the work of the Country Offices to develop new programmes, mobilize resources, and build partnerships with new donors and organizations within the United Nations and externally. The Western Balkans team, working closely with the UNDP Regional Center in Bratislava and the Country Offices, is also responsible for developing and launching sub-regional programmes and strategies that address the countries' priorities as well as those established by the European Union and the Stability Pact.

2. EU/EAR Priority Areas for Development Cooperation for South East Europe

2.1 Overview ➔ Chapter 2 – Section 2.1.3.5 of EC Gender Toolkit

The EU policy framework for relations with **the former Yugoslav Republic of Macedonia** and **Serbia and Montenegro** (including **UN-administered Kosovo**) (as well as Albania, Bosnia and Herzegovina, Croatia) is the **Stabilization and Association process** (SAP). ➔ *Section 1 of EC SAP for South East Europe Annual Report 2004*

The SAP is designed to support the domestic reform processes that these countries have embarked upon. **The SAP is a long-term commitment to the region both in terms of political effort and financial and human resources.** It is a step-by-step approach based on aid, trade preferences, dialogue, technical advice and, ultimately, contractual association relations. The SAP provides a **framework for the development of privileged political and economic relations between these countries and the EU.**

An important pillar of the SAP is the conclusion of individual Stabilization and Association Agreements (SAA). ➔ *Section 2.1 of EC SAP for South East Europe Annual Report 2004*

By signing an SAA, a Western Balkan country commits:

- a. To gradual alignment to EU legislation in a number of areas;
- b. To a gradual establishment of a free trade area with the EU;
- c. To conclude bilateral agreements with their neighbours in the region on, for example, trade and free movement of workers, services and capital;
- d. To co-operate with the EU on issues such as justice, visa, border control, illegal immigration, money laundering, transport, energy etc.

An “**Agenda for the Western Balkans**”⁵⁸ was adopted in June 2003, which includes an enrichment of the current SAP through the provision of **new European Integration Partnerships**. Inspired by the pre-accession process and tailor-made to each country’s needs, these partnerships will identify, on a regular basis, priorities and obligations to be fulfilled. EU financial assistance will be directed to the priorities set out in the partnerships. Each country will draw up a national action plan for implementation of the partnerships, which will provide a clear agenda against which to measure progress.

58. See <http://www.cespi.it/STOCCHIERO/dossierBalceni/dich-Salonicco.PDF>.

2.2 European Agency for Reconstruction – Policy on Minorities

As an agency of the European Union (EU), **the European Agency for Reconstruction (EAR) has a policy towards minorities in-line with that of the EU.** The EU Directive on Racial Equality prohibits discrimination on the basis of racial or ethnic origin, and the EU Charter on Fundamental Rights (December 2000) explicitly states equality before the law of all people, prohibition of discrimination on any grounds and requires the protection of cultural, religious and linguistic diversity by the Union. All actions undertaken by the European Commission outside of the Union are in compliance with the principles and rights in the Directive and the Charter.

As such, EAR policy in South East Europe is in compliance with the Stability Pact for Europe (10 June 1999), which aims to anchor peace and democracy in the region, and pays great attention to respect for minorities. Of particular note is the European Initiative for Democracy and Human Rights, which has projects funded specifically for increasing the protection of minorities and capacity building of state officials, NGOs and minority communities. EAR activities are based especially in Serbia and Montenegro (including UN-administered Kosovo) and in FYROM. Since those countries are included in the next stages of EU enlargement, they will certainly be requested to fulfill specific requirements on minority inclusion. So were most of Central European countries, and one of the typical processes on such inclusion is demonstrated in the Hungarian case.

3. Case Study: The Roma Question and the Accession of Hungary to the EU

This section will analyse the case of Roma minority mainstreaming in Hungary during the period leading up to EU accession and since. The relevance of the Hungarian model is that it demonstrates **how countries with a significant minority population (in this case the Roma), ought to treat mainstreaming minority issues when the question of accession to EU is at stake.** This is especially relevant because minority inclusion is an essential element of the EU's negotiations with candidate states. The fact that **ensuring equality is a long process** also highlights **the necessity of addressing it as soon as possible in the reconstruction and development programmes during the association process.**

3.1 *Preparing Hungary for Accession*

3.1.1 *Analysis of the situation of the Hungarian Roma population*

The **Roma**, who account for up to 6% of Hungary's population, constitute the largest ethnic minority in Hungary. Additionally, Hungarian Roma represent the fourth largest Roma community in Europe. According to the estimates of several professional studies, the Hungarian Roma population ranges between 500-600 thousand, its numeric proportion in Hungarian society is on the increase and its density is highest mostly in the underdeveloped regions of Northern Hungary, the Northern part of the Great Hungarian Plain and Southern Transdanubia. Several major factors that affect their living conditions are listed below → *Section 1 – 1.8.2:*

a. Housing

Housing conditions of the Roma have significantly **improved** in the past few years. However, levels of comfort and furnishing are still far **below national standards**.

b. Health

The **health conditions** of the Roma population and their living prospects are poor. Roma **life expectancy at birth**, in spite of general improvement in mortality rates, is **9 to 10 years less than the national average**.

c. Education

Despite some positive government initiatives, **the educational level** of the Roma population is **much lower than the majority's average**, and the **gap between Roma and the majority has actually increased**. According to 1993 data, 77% of **Roma children** finished **primary school**. At present, 50% of **Roma children** who finish primary school continue their studies.

d. Employment

Roma workers were among those **most adversely affected by political and economic transformation** in Hungary. During the 1990s, more than 50% of Roma employees lost their jobs. Thus, the unemployment rate of the Roma population grew almost five times as fast as that of the majority population. In addition, the average Roma employee provides for three times as many dependants as a non-Roma employee. As a result, **family allowances as well as child and social benefits constitute the main sources of income for many of them**. Other factors contributing to the difficulties of Roma workers in the labour market include a low rate of graduation from school and an overall lack of skills. At the same time, the

re-integration of Roma into the labour market is hindered by **discriminatory practices** in the re-qualification process.

e. Overall Assessment

In general, the Roma minority in Hungary is negatively affected by economic depression, underdevelopment and poor infrastructure in the regions where most of them live. Also, because the majority population is not aware of the extent of the problems the Roma population faces, there is a lack of political urgency in taking action to significantly improve their living conditions.

3.1.2 Copenhagen Criteria for Accession

The principles upon which the EU establishes its co-operation with the accession states are the so-called “**Copenhagen Criteria**” ➔ *Section 1 – 1.6.1* adopted by the European Council in 1993.⁵⁹ The situation of minorities, including the Roma⁶⁰, is an important aspect of the considerations taken into account when assessing the capacity of candidate states for membership.

3.1.3 Domestic Instruments for Protection and Support of National and Ethnic Minorities in Hungary

a. Parliamentary Commissioner

The Hungarian Constitution recognizes inviolable and unalienable human rights. However, the promulgation of **Act LXXVII on the Rights of the National and Ethnic Minorities in 1993 (Minority Rights Act)** proved to be crucial in the area of **minority protection**.⁶¹ That Act created a system of minority self-government and a framework for minority protection unique even by comparison with states with advanced provisions in this area.⁶² A central element of this was the establishment of the position of **Parliamentary Commissioner**, who was elected at the end of June 1995.⁶³

59. Available at <http://europa.eu.int/comm/enlargement/intro/criteria.htm>

60. For monitoring reports on the situation of Roma in Europe from 2001 to present, see: EUMAP. Monitoring the human rights and the rule of law in Europe, available at <http://www.eumap.org>

61. Available at <http://www.obh.hu/nekh/en/index.htm>

62. During the first parliamentary term a total of 738 minority self-governments were formed, of these 477 were Roma minority self-governments, giving nearly 1.500 Roma a role in public affairs. The numbers nearly doubled in 1998. In 2005, there were 970 Roma minority self-governments.

63. See <http://www.obh.hu/nekh/en/index.htm>.

The Parliamentary Commissioner may be called upon to intercede on behalf of a:

- **Citizen** whose minority rights have been violated in the matters of use of native language, freedom of association, participation in native language education, self - identity, racial discrimination, etc;
- **Community** whose minority rights have been violated (for example **self-governance, Parliamentary representation, establishment of institutions, cultural autonomy, etc.**)

b. Other Instruments

i) Pursuant to the an **Amendment to Act LXXIX of 1993 on Public Education** passed in 1996 specified regulations according to which **local national minority self-governments** could establish and maintain **public educational institutions**.

ii) The social integration of the Roma population is considered a question of **both minority and social policy**. Accordingly, issues such as **language and cultural protection are addressed alongside**, for instance, **employment, poverty, vocational training and education**. Since 1995, the following resolutions have been passed by the Government in an effort to improve the situation of the Roma people:

Government Decision 1120/1995 (XII.7) established the Coordination Council for Roma Affairs that is intended to harmonize the activities of ministries and other national governmental bodies with responsibility for matters related to the Roma population.

Government Decision 1121/1995 (XII.7) was passed to establish the Public Foundation for Roma Affairs that aims to promote the social integration of the Roma population and provide support for local subsistence programmes.

Government Decision 1125/1995 (XII.12) outlined governmental measures that ought to be used **to tackle the** social inequality of the Roma population.

Government Decision 1093/1997 (VII.29) outlined the medium-term package of measures **for improvement of the** living conditions of the Roma population. This programme was completed with the assistance of the National Roma Self-government.

Government Decision 1047/1999 (V.5) **on the Medium-term Package of Measures to Improve the Living Standards and Social Position of the Roma Population** was aimed at reducing **social inequalities of opportunity, prejudice and discrimination** and at strengthening the **identity and culture** of the Roma communities. The main areas of the programme are: education, culture, employment, agriculture, regional development, social programmes, health, housing, anti-discrimination and public relations. The government created the **Inter-Ministerial Committee on Roma Affairs** tasked with coordinating the related activities of the ministries. The ministries prepared **annual action plans** for implementation of measures designed to harmonize with the medium-term package and the long-term strategy which was finalized in 2000.

3.1.4 Accession Partnerships

In March 1998, the European Commission produced Accession Partnerships → *Section 1 – 2.1* for the **ten** candidate countries of Central and Eastern Europe. These are **roadmaps** designed to help these countries meet the membership criteria. Under the Accession Partnerships, EU assistance has been conditional and based on commitments under the European Agreements that represented further steps towards satisfying the Copenhagen Criteria → *Section 1 – 1.6.1*.

The 1998 Accession Partnerships for Hungary (also for the Czech Republic, Bulgaria and Romania) made the **further integration** of the Roma community **a medium-term political priority**. On 31 March 1998, accession negotiations → *Section 1 – 1.6* were opened with **Hungary**, the Czech Republic, Estonia, Poland, Slovenia and Cyprus.

3.1.5 Regular Reports ⁶⁴

The **European Council** meeting in Luxembourg in 1997 invited the **Commission** to set up Regular Reports to track the progress of each candidate country towards accession through fulfilment of Copenhagen Criteria.

a. The 1999 Regular Report stated that the situation of the Roma population in Hungary had not notably improved, but neither had it worsened. The report included a detailed summary of government steps taken to improve the situation

.....
64. See <http://europa.eu.int/comm/enlargement/docs/index.htm>.

of the Roma. Additionally, it mentioned positive developments of Roma self-organization and the preservation of their culture. Finally, it stated that the situation of the Roma population remains extremely difficult and appropriate financial resources must be allocated to support governmental measures.

b. The 2000 Regular Report ascertained that, in harmony with the Accession Partnership's short-term objectives and the medium-term Roma action programme approved in April 1999, the Government had undertaken positive steps towards managing the difficult situation of the Roma minority. There have been a number of measures taken in the areas of education (i.e., support for scholarship programs and educational institutions), culture (i.e., Roma community houses aiming at the strengthening of local communities and the preservation of Roma culture), employment (i.e., public utility and public works programmes), housing, health and anti-discrimination (i.e., instances of discrimination being dealt with before the courts, the appointment of the commissioner responsible for educational affairs).

c. The 2001 Regular Report stated that the implementation of the medium-term Roma action programme continued and that the Government had increased the budgetary means to implement it. However the means used or allocated remained limited in relation to the extent of the social disadvantage affecting the Roma population. In addition, the Government programme did not contain any provision for evaluating the success of measures taken in alleviating the disadvantaged position of the Roma. The situation in the education sector remained a particular concern, given that, in certain areas, up to one third of school pupils were of Roma origin and the school system lacked human and financial resources to address their specific educational needs.

d. The 2002 Regular Report ascertained that while the implementation of the 1997 medium-term programme was underway and a new monitoring system had been established, Roma policy still had not been satisfactorily integrated into general strategies of social development. In view of this, the envisaged adoption of a long-term strategy on Roma policy was welcomed.

e. The 2003⁶⁵ Comprehensive Monitoring Report⁶⁶ stated, "Hungary is meeting the majority of the requirements for membership in the areas of European Social Fund and anti-discrimination. With regard to European

65. Comprehensive Monitoring Reports are a final, public, overall report on the state of preparations for membership.

66. See p.36 of The 2003 Comprehensive Monitoring Report found at <http://europa.eu.int/comm/enlargement/docs/index.htm>

Social Fund, including **EQUAL**, while considerable progress has been achieved during the last few months, further efforts are urgently needed in order to strengthen the administrative capacity for management, implementation, monitoring, audit and control at national and regional level. Attention is to be given to alignment with the **anti-discrimination acquis**, ➔ *Section 1 – 1.5.1* and considerable efforts should aim at improving the situation of the Roma minority.”

3.1.6 Accession Programmes

a. Phare ➔ *Section 4.1 of CARDS Regional Strategy Paper 2002-2006*

The main instruments for preparing candidate countries for EU membership were **Phare programmes** that contained both financial and technical support. In Hungary, the first Phare programmes involving the Roma minority started in 1999 (followed in 2000, 2001). They were initiated within the **Phare National Programmes** providing for total support of Euro 33m of which the Phare contributed Euro 18m and Hungary Euro 15m.

Particular Phare programmes were undertaken by the **Ministry of Education** (in a project called “Support to the Social Inclusion of Young People with Multiple Disadvantages, principally Roma Youth”)⁶⁷, by the **Office for National and Ethnic Minorities** (in a project called “Roma Social Integration”) and by the **Ministry of Social Affairs** (in a project called “Promoting the Employability and long-term Employment of Multiply Disadvantaged population”).

The Anti-discrimination Training Project was part of the 2000 **Roma Social Integration Phare Programme** and aimed at avoiding the development of a pattern of inequality and prejudice reducing discrimination and improving co-operation and communication between the Roma community and public service institutions. Training was carried out in the areas of employment, social welfare, housing, education, economics and public safety. Members of the **Roma minority**, civil servants, employees and professionals who regularly came into contact with the Roma population were the primary groups selected for training. Additionally, the **National and Ethnic Minority Office Phare programme** consisted of three projects: **Welfare Innovation, Anti-Discrimination Institution Building, Anti-Discrimination Training and Information Services**.

67. See http://www.phareoffice.hu/default_eng.asp

b. Governmental Programmes

i) There have been several projects financed by the government. For instance, **the Network of Roma Legal Aid Offices** was established to tackle inequalities of access to the judicial system.

ii) In 2001, the Ministry of Justice, in cooperation with the National Roma Self-government and the Office for National and Ethnic Minorities established an **Anti-Discrimination Roma Clients Service Network**. Lawyers appointed in each of the counties conducted this network's functions, with the aim of forming a **legal advisory service for** Roma clients. The assistance covered a wide spectrum, from provision of legal advice to representing a client in a case.

iii) **Local conflict management offices** and programmes were set up under the Ministry of the Interior (called "**Anti-discrimination Actions at the Police**"). Cross-cutting Roma social, historical, sociological and cultural studies were implemented into police training courses so as to eliminate discrimination in policing activities. The ministry also promotes the **entry of young Roma candidates into the police force**, mostly in the form of scholarships. Upon recommendation of the **Minority Ombudsman**, the **National Police Headquarters** issued an internal code on police procedures that explains how to perform police duties while respecting human rights and persons' dignity.

iv) Hungary has been obligated to ensure that the Hungarian legal system is in complete harmony with European Community Regulations and Directives dealing with issue of anti-discrimination. Thus, in March 2001, the **Minister of Justice** established a working group that was in charge of harmonizing the Hungarian legal system. The working group submitted modification proposals to the Hungarian Government with regards to anti-discrimination legal provisions when necessary to amend or revise the current laws.

v) Hungary is a signatory to the **European Convention for the Protection of Human Rights and Fundamental Freedoms** → *Section 1 – 1.2.1* as well as to approximately 50 conventions of the **Council of Europe**, including the **Framework Convention for the Protection of National Minorities**. → *Section 1 – 1.3.2* In 2000, a Protocol appended to the European Convention for the Protection of Human Rights and Fundamental Freedoms stated that nobody is to suffer discrimination from any public authority on any basis whatsoever. On 4 November 2000 in Rome, the Protocol was opened for signature by member states and **Hungary** was among the first states to sign.

3.2 Post-Accession Period

3.2.1 The Social Inclusion Programme → Section 1 – 1.5.3

a. Member states are required to adopt **National Action Plans (NAPs)** addressing **exclusion** at all levels of society. These are funded via the **European Social Fund**, the **EQUAL Programme** and the **European Structural and Cohesion Fund**. The primary objective of these funds is to help **reduce the disparities in development** among **member states** and **regions** in order to strengthen the **economy** and **social cohesion**.

b. Pursuant to **EC Council Regulation 1260/1999**, Member States entitled to use Structural Funds must prepare **National Development Plans (NDPs)** detailing how they will pursue their **development objectives and priorities**. Member States are obligated to submit NDPs to the European Commission. The NDP also constitutes the basis for discussion with the European Commission and for the subsequent establishment of a Community Support Framework (CSF) which is concerned with the legal aspects of the process.

c. The **Hungarian National Development Plan** that is in place for the period of 2004-2006 must also be **in accordance with the Regulations** of the European Parliament and Council **governing the Structural Funds**, i.e., the European Regional Development Fund (ERDF) with Regulation /EC/ No 1783/1999, the European Social Fund (ESF) with Regulation /EC/ No 1784/1999, the European Agricultural Guidance and Guarantee Fund (EAGGF) with Regulation /EC/ No 1257/1999, and the Financial Instrument for Fisheries Guidance (FIFG) with Regulation /EC/ No 1263/1999. The activities financed by the Structural Funds are closely connected with the measures financed by the Cohesion Fund. The development objectives of the Cohesion Fund are reflected in the National Development Plan and are in accordance with Council Regulations /EC/ No 1264/1999 and 1265/1999 on the Cohesion Fund.

3.2.2 The Hungarian National Development Plan 2004-2006 ⁶⁸

a. Hungary prepared a **National Development Plan (NDP)** that set up the framework for the utilization of Structural Funds. Based on a comprehensive analysis of the economic and social situation in the country, the NDP identified the objectives and priorities to be supported from Structural Funds sources in the period 2004-2006. The overall objective of the NDP is to **reduce the income**

68. See <http://www.nfh.hu/>

gap between Hungary and the EU average. NDP's specific objectives are the competitiveness of Hungary's economy, better utilization of human resources, improving the environment and balanced regional development. The strategy is implemented through **operational programmes for each sector or region.**

Based on the NDP, Hungary has drafted five operational programmes: Economic Competitiveness, Agricultural and Rural Development, Development of Human Resources, Environment Protection and Infrastructure, and Regional Development (see Fig. 1).

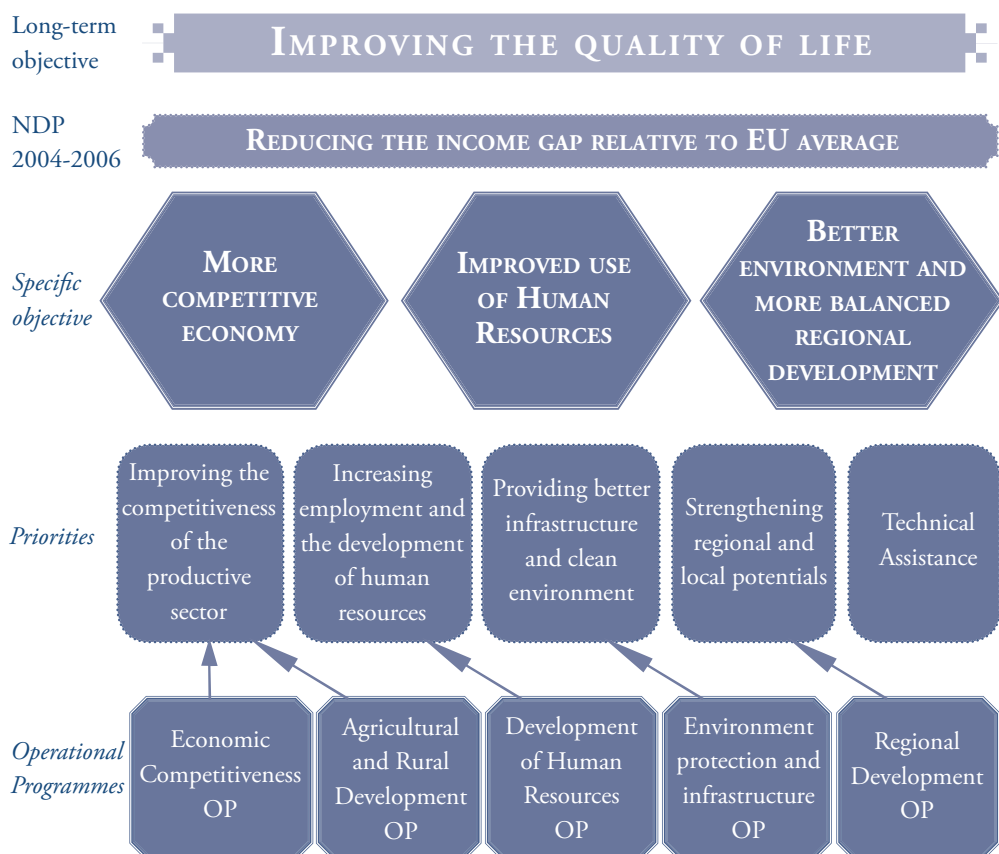


Figure 1. Objectives, priorities and Operational Programmes of the NDP⁶⁹

69. See <http://www.nfh.hu/>; Hungarian National Development Plan 2004-2006

b. The Human Resources Development Operational Programme (HRD OP), accounts for the largest share of Structural Funds. The HRD OP is also a key instrument in achieving the objectives set out in the **Joint Assessment Paper (JAP)** as well as in the **European Employment Strategy**. The Ministry of Employment and Labour has developed the HRD OP in cooperation with the Ministry of Education and the Ministry of Health, Social and Family Affairs. Similarly, the Ministry of Child, Youth and Sports, the Ministry of Justice, the Ministry of Economy and Transport and the Ministry of Informatics and Telecommunication have also participated in the planning of HRD OP.

HRD OP is also part of a broader governmental program, established in Government Decree 1047/1999 (V.5), designed to **improve the living conditions and social status** of the Roma in the areas of education, culture, employment, regional development, social issues, healthcare and housing.

The HRD OP consists of the following **four priorities**:

i). Promoting active labour market policies – including support to the **Public Employment Service (PES)** that helps the unemployed return to the labor market, prevents long-term unemployment and provides assistance to young people in meeting the requirements of the labour market.

ii). Prevention of social exclusion – including promoting access to the labour market and improving employment opportunities for disadvantaged people (i.e., the long-term unemployed, the disabled, people with a low level of education, inhabitants of underdeveloped regions), including the Roma.

iii). Promoting lifelong training, education and adaptability programs – including, inter alia, all levels of the education system, vocational training, as well as adult training of disadvantaged people including the Roma.

iv). Improving the infrastructure of education, social services and healthcare frameworks – supported by the European Regional Development Fund - including investments in infrastructure and human resource development aimed at **reducing disparities among regions**.

c. Horizontal Principles of NDP

i) Although NDP programs **do not have separate programs for Roma** people, they do focus on disadvantaged social groups. In most of the regions, the Roma represent one of the most disadvantaged social groups and, thus, are a targeted group.

- ii) In addition, horizontal principles, (e.g., equal **opportunities for men and women**) positively affect the Roma as well as other social groups.
- iii) NDP programs are required to **apply horizontal principles** at every stage – planning, implementation, monitoring and evaluation.

3.3. Accession Process to the EU and EAR Programmes on Minority Mainstreaming

- The challenges and obstacles that the Roma community face in Hungary are very similar to those of the minorities in most South Eastern European countries.
- There are a number of South Eastern European countries that are at various stages of **preparation for EU membership**.

What lessons can EAR learn from the Hungary Case?

- How the requirements of the **Copenhagen Criteria** in terms of minority protection are applied to each country that wishes to start **accession negotiations** resulting in the EU membership.
- How the institution of **Parliamentary Commissioner** can serve as a positive model for other countries in Europe.
- How Accession Programs, such as **Phare**, can play a positive role in improving the living conditions of the Roma community in developing countries during the long-term process of preparations for EU membership.
- That **National Action Plans** and the **Human Resource Development Operational Programme** are examples of the necessary types of policy framework that EU member countries must establish to be eligible for **Structural Funds**, a major funding source for development programs aimed at **minority/Roma** communities.

4. Cumulative List of Tools – Section 1

4.1 *Universal Human Rights Instruments*

International Covenant on Civil and Political Rights (ICCPR) ➔ *Section 1.2.3*

International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) ➔ *Section 1 - 1.2.2*

Declaration of the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities ➔ *Section 1 - 1.2.4*

4.2 *European Human Rights Instruments*

Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) ➔ *Section 1 - 1.2.1*

Charter of Fundamental Rights and Freedoms ➔ *Section 1 - 1.5.2*

4.3 *Minority Protection Instruments*

European Charter for Regional and Minority Languages (ECRML) ➔ *Section 1 - 1.3.1*

Framework Convention on the Protection of National Minorities (FCNM) ➔ *Section 1 - 1.3.2*

4.3 *European Instruments*

Copenhagen Criteria ➔ *Section 1 - 1.5.5*

EC Treaty ➔ *Section 1 - 1.5*

Stability Pact for South East Europe ➔ *Section 1 - 1.5.7*

Stabilization and Association process (SAp) ➔ *Section 1 - 1.5*

The Lund Recommendations ➔ *Section 1 - 1.4.2*

“Equal Employment Directive - Council Directive 2000/78/EC (27 November 2000) ➔ *Section 1 - 1.5.3*

Thessaloniki Declaration ➔ *Section 1 - 1.5.6*

Regulation on developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms in third countries (EDIHR), Council Regulation (EC) No 976/1999 (29 April 1999) ➔ *Section 1 - 1.6.3*

Community Assistance for the Reconstruction, Development and Stabilisation (CARDS) Programme ➔ *Section 1 - 1.5*

“Race Directive” - Council Directive 2000/43/EC ➔ *Section 1 - 1.5.1*

Lisbon Strategy ➔ *Section 1 - 1.5.3*

Social Inclusion Programme ➔ *Section 1 - 1.5.3*

National Action Plans (NAPs) ➔ *Section 1 - 1.5.3*

Decade of Roma Inclusion ➔ *Section 1 - 1.6.2*

Agenda for the Western Balkans ➔ *Section 1 - 2.1*

Further Reading

Roger Riddell, Minorities, *Minority Rights and Development* (Minority Rights Group International, November 2002) available at http://www.minorityrights.org/admin/Download/pdf/IP_Development_Riddell.pdf

Katarina Tomasevski, *Minority Rights in Development Aid Policies* (Minority Rights Group International, November 2000) available at http://www.minorityrights.org/Dev/Mr_dev_2.pdf

Margot E. Salomon, ed., *Economic, Social and Cultural Rights: A Guide for Minorities and Indigenous Peoples* (Minority Rights Group International, February 2005) available at <http://www.minorityrights.org/admin/Download/Pdf/MRG-ECOSOC.pdf>

Tara Bedard, *Participation in Economic Life: An Advocacy Guide for Minorities in South-East Europe* (Minority Rights Group International, April 2005) available at <http://www.minorityrights.org/admin/Download/Pdf/MRG-SEE-guide.pdf>

Gudmundur Alfredsson and Erika Ferrer, updated and revised by Kathryn Ramsay, *Minority Rights: A Guide to United Nations Procedures and Institutions* (Minority Rights Group International, 1999 & 2004) available at <http://www.minorityrights.org/admin/Download/Pdf/UNGuide2004.pdf>

Catharine Barnes and Manon Olsthoorn, *The Framework Convention for the Protection of National Minorities: A Guide for Non-Governmental Organizations* (Minority Rights Group International, September 1999) available at <http://www.minorityrights.org/admin/Download/Pdf/FrameConv.pdf>

MINORITY ISSUES MAINSTREAMING



INTRODUCTION

SECTION ONE

SECTION TWO

SECTION THREE

GLOSSARY

MINORITY NEEDS ANALYSES AND MINORITY ISSUES RESOURCES

Key Definitions:

- Access to justice
- Decentralization processes
- Definitions of (national) minorities
- Employment structures
- European Charter for Regional and Minority Languages (ECRML)
- Framework Convention on the Protection of National Minorities (FCNM)
- Government action plans
- Implementation
- Laws on national minorities (or communities)
- Legal Frameworks
- Mechanisms for oversight and protection
- Minority councils
- Minority rights protection
- Minority rights standards
- Minority thresholds
- Ombudsman
- Public administrative reform
- Refugees and IDPs
- Representation of minorities – central and municipal levels
- ‘Smaller’ minorities
- Social attitudes
- Social integration/exclusion
- Standard of living
- Status of minorities – economic, social, political and cultural
- Violence against/harassment of minorities

Introduction

In terms of the activities supported by EAR in South East Europe, one can distinguish between those specifically targeting minorities and those such as sector programmes which impact minorities. Mainstreaming minority issues in these fields can take several forms: a) considering the effects of particular initiatives on minorities; b) assessing whether initiatives require additional measures to be effective among minority communities; and c) securing the relevance of initiatives for needs of minorities.

In order to better target key issues and concerns, they are outlined in a concise manner as tool for project managers, programme officers and others involved in concrete planning and programming activities. The tools can be used as snapshots for preparation of Project Fiches (PF) and Terms of Reference (ToR) for activities in individual countries.

This section will outline in detail the specific situation of minorities in the countries of EAR operations in South Eastern Europe as well as sectors, which have been described in relation to minority rights and issues. These sectors have been chosen based on their relevance to all development sectors within the European development cooperation realm and are particularly relevant to minority inclusion and equal opportunities.

Legal Frame:

Each country/province has established a legal framework in relation to other international and European commitments to human rights. These frameworks directly impact the status of minority communities in each country/province, and are increasingly important in relations between South East European countries and the European Union, particularly in accessing development funds and membership in the EU.

Political Participation:

Representation of minorities in public life is a key factor in ensuring that their needs are heard at all levels of government. Some countries have threshold regulations to establish the access of certain rights such as language in schools and public administration, whilst others have established quota systems or reserved seats for minority representatives in parliament. Political representation allows minority communities to influence the implementation of legal mechanisms for the protection and promotion of their rights.

Education Access:

The ability for minorities to access education is integral for their future economic, social and political well-being. Access to education in their own language is a further indicator of the level of minority rights protection in each country/province. Education also allows minorities to be increasingly aware of their rights as a minority and as individuals.

Employment Opportunities:

The ability to gain employment is key to providing the necessary requirements to establish a decent standard of living. However, minority groups face many factors in obtaining legal employment: language, education, direct and indirect discrimination, and access to areas where jobs are available, among others. Gainful long-term employment raises the standard of living of minority groups, and also allows them to provide for a higher level of education for their children, which has a multiplying effect on the status of minorities.

1. Serbia – Minority Needs Analysis

1.1 Statistics

Ethnic Composition (without UN-administered Kosovo)								
	Serbs	Hungarians	Bosniaks	Roma	Yugoslavs	Croats	Montenegrins	Others
1991	79.54%	4.1%	-	1.21%	4.01%	1.29%	1.53%	8.01%
2002	82.86%	3.92%	1.82%	1.44%	1.08%	0.94%	0.92%	7.02%

Political Representation (at the central level)					
	Total	Hungarian	Bosniak/Muslim		Albanian
			KsS	SDP	
1997	8	4	3	-	1
2000	8	6	-	2	-
2003	2	-	2	-	-

Education Levels (2002)					
	Serbs	Roma	Albanians	Bosniaks	Hungarians
Primary	23.1%	29.0%	45.0%	37.6%	29.8%
Secondary	42.2%	7.8%	16.6%	33.1%	37.3%
Higher Education	11.3%	0.3%	4.2%	5.5%	6.3%

Minority Language Education in Vojvodina (2003/2004)											
	Serbian		Hungarian		Slovak		Romanians		Ruthenian		Croat
	Ele.	Sec.	Ele.	Sec.	Ele.	Sec.	Ele.	Sec.	Ele.	Sec.	Ele.
Municipalities	45	39	27	12	13	2	9	2	3	1	1
Schools	326	115	78	35	18	2	18	2	3	1	4
Classes	6946	2634	978	297	170	13	94	8	37	4	5
Pupils	155,817	72,000	18,525	6,783	1,523	341	1,523	187	693	67	72

Employment (2002)						
	Total	Serbs	Hungarians	Bosniaks	Albanians	Roma
Employed	70.8%	71.7%	67.4%	49.5%	27.7%	37.0%
Unregulated Job	4.0%	3.6%	5.2%	7.8%	4.0%	34.6%
Employer	2.9%	2.9%	2.0%	3.5%	4.3%	0.9%
Individual Farmer	18.5%	18.2%	22.3%	30.5%	54.3%	12.9%
Self-employed	2.5%	2.4%	2.0%	4.8%	5.6%	4.1%
Others	1.3%	1.2%	1.1%	3.8%	4.2%	10.4%

1.2 Overview

1.2.1 Serbia is committed to the key human and minority rights conventions of the Council of Europe and the United Nations. It has further accepted a liberal framework for minority rights through the state union law on minorities and the Constitutional Charter. The country has further committed itself to a ten-year action plan⁷⁰ regarding the improvement of the status of Roma in the framework of the Decade of Roma Inclusion.

1.2.2 The legal framework for minority rights remains underdeveloped. While the superstructure of minority rights protection is exemplary, there is a dearth of legal acts and decisions, which give ambitious commitments substance. The absence of a complete legal framework is in part the result of difficulties in securing the political consensus and will. Minority rights protection has been only a reactive priority of lawmakers and the executive, responding to international pressure.

1.2.3 Local government is key delivering basic services to communities, including minorities. A new form of minority inclusion at the local level are councils on interethnic relations set up by the 2002 law on local government. Despite these reforms, **minorities remain underrepresented in local government** and administration in municipalities where minorities do not constitute a local majority.

1.2.4 The economic and social status of minorities in Serbia varies greatly. Vojvodina, together with Belgrade, has been the most prosperous region of Serbia, and particularly the Hungarian minority has benefited from the proximity to Hungary. The economic situation in central Serbia has been considerably worse, affecting the minorities residing in the region. In particular, Bulgarians and Romanians/Vlachs in Eastern Serbia live in some of the poorest municipalities in Serbia. As a consequence, migration has reduced numbers of these minorities. The Albanian inhabited municipalities also belong to the poorest in Serbia, with Albanians being the target of discrimination by state-run enterprises in the 1990s. Muslims/Bosniaks in the Sandžak region benefited economically from a booming textile industry and illegal trade during the period of sanctions due to its strategic location between Bosnia, Kosovo and Montenegro. In recent years, however, the economy in the region declined and unemployment has been well above the Serbian average.

70. The action plan lays out activities to be undertaken by the State Union Ministry for Human and Minority Rights and relevant Serbian line ministries. Action plan available at: <http://www.romadecade.org/en/download.php?action=20&id=7>

1.3 Legal Status of Minorities

1.3.1 Legal Framework

a. The main minority rights convention, the **Framework Convention for the Protection of National Minorities**,⁷¹ was ratified by the Parliament of the Federal Republic of Yugoslavia in 1998, but the ratification was only submitted after democratic changes in 2001. The first Report on the implementation of undertaken obligations was submitted in 2002 and with the adoption of a resolution by the Committee of Ministers in November 2004, the first monitoring cycle has been completed.⁷²

➔ *Section 1-3.2*

b. Serbia and Montenegro is also party to all main **human rights conventions** (European Convention for the Protection of Human Rights and Fundamental Freedoms,⁷³ International Covenant on Economic, Social and Cultural Rights,⁷⁴ International Covenant on Civil and Political Rights,⁷⁵ International

71. The FCNM (1995) available at: <http://conventions.coe.int/Treaty/EN/Treaties/Html/157.htm>

72. The State Report (2002) available at: [http://www.coe.int/T/E/human_rights/minorities/2._FRAMEWORK_CONVENTION_\(MONITORING\)/2._Monitoring_mechanism/3._State_Reports_and_UNMIK_Kosovo_Report/1._First_cycle/1st_SR_FRY.asp](http://www.coe.int/T/E/human_rights/minorities/2._FRAMEWORK_CONVENTION_(MONITORING)/2._Monitoring_mechanism/3._State_Reports_and_UNMIK_Kosovo_Report/1._First_cycle/1st_SR_FRY.asp)

The Opinion of the Advisory Committee (2003) available at: [http://www.coe.int/T/E/human_rights/minorities/2._FRAMEWORK_CONVENTION_\(MONITORING\)/2._Monitoring_mechanism/4._Opinions_of_the_Advisory_Committee/1._Country_specific_opinions/1._First_cycle/1st_OP_SAM.asp](http://www.coe.int/T/E/human_rights/minorities/2._FRAMEWORK_CONVENTION_(MONITORING)/2._Monitoring_mechanism/4._Opinions_of_the_Advisory_Committee/1._Country_specific_opinions/1._First_cycle/1st_OP_SAM.asp)

The State Comments (2004) available at: [http://www.coe.int/T/E/human_rights/minorities/2._FRAMEWORK_CONVENTION_\(MONITORING\)/2._Monitoring_mechanism/5._Comments_by_the_States_concerned/1._First_cycle/1st_comments_SAM.asp](http://www.coe.int/T/E/human_rights/minorities/2._FRAMEWORK_CONVENTION_(MONITORING)/2._Monitoring_mechanism/5._Comments_by_the_States_concerned/1._First_cycle/1st_comments_SAM.asp)

The Council of Minister's Resolution (2004) available at: [http://www.coe.int/T/E/human_rights/minorities/2._FRAMEWORK_CONVENTION_\(MONITORING\)/2._Monitoring_mechanism/6._Resolutions_of_the_Committee_of_Ministers/1._Country-specific_resolutions/1._First_cycle/CM_Resolution_SAM.asp#TopOfPage](http://www.coe.int/T/E/human_rights/minorities/2._FRAMEWORK_CONVENTION_(MONITORING)/2._Monitoring_mechanism/6._Resolutions_of_the_Committee_of_Ministers/1._Country-specific_resolutions/1._First_cycle/CM_Resolution_SAM.asp#TopOfPage)

73. The European Convention for the Protection of Human Rights and Fundamental Freedoms (1950) available at: <http://conventions.coe.int/Treaty/en/Treaties/Html/005.htm>

74. The International Covenant on Economic, Social and Cultural Rights (1966) available at: http://www.unhchr.ch/html/menu3/b/a_cescr.htm

75. The International Covenant on Civil and Political Rights (1966) available at: http://www.unhchr.ch/html/menu3/b/a_ccpr.htm

Convention on the Elimination of All Forms of Racial Discrimination)⁷⁶ and signed the European Charter for Regional and Minority Languages⁷⁷ in March 2005 (ratified in February 2006).⁷⁸

→ *Section 1 - 1.2, 1.3*

c. Minority and human rights standards are laid out in detail in the **Constitutional Charter of the State Union** and the **Charter on Human and Minority Rights and Civil Liberties**.⁷⁹ The Constitutional Charter further prohibits a lowering of existing standards and delegates the protection of minority rights to the member states. The State Union is only to become active in case either Serbia or Montenegro fails to provide for adequate protection (art. 9). Importantly, all international human and minority rights treaties to which Serbia and Montenegro is party, directly apply (art. 10) and can thus be invoked in domestic courts. The Charter on Human and Minority Rights and Civil Liberties,⁸⁰ passed in conjunction with the Constitutional Charter, outlines the main minority rights protection in Serbia and Montenegro. In general, the Charter secures a high level of minority rights by European standards.

d. The **Constitution of Serbia** dates to 1990 and enumerates general human and minority rights, but lacks detail in the field of human rights and generally has strong authoritarian traits. These include the absence of credible mechanisms to protect human rights, the strong role of the president and weak role of parliament, a high degree of centralization, and the ability to suspend human rights and democratic procedures in a state of war. The passing of a new constitution has been under discussion in recent years.

e. The main law governing the protection of minorities was passed in 2002 by the Federal Assembly. The “**Law on the Protection of the Rights and Freedoms of National Minorities**”⁸¹ has been applied in Serbia and remains the key legal

76. The International Convention on the Elimination of All Forms of Racial Discrimination (1965) available at: http://www.unhchr.ch/html/menu3/b/d_icerd.htm

77. The European Charter for Regional and Minority Languages (1992) available at: <http://conventions.coe.int/Treaty/EN/Treaties/Html/148.htm>

78. All relevant state reports are available in Serbian and English at: <http://www.humanrights.gov.yu/english/dokumenta/index.htm>.

79. The Constitutional Charter of the State Union available at http://www.mfa.gov.yu/Facts/const_scg.pdf.

The Charter on Human and Minority Rights and Civil Liberties available at: http://www.mfa.gov.yu/Facts/charter_min.pdf

80. See <http://www.gov.yu/document/povelja.pdf>

81. See http://www.humanrights.gov.yu/files/doc/Zakon_Engleski.doc

document in Serbia even after the transformation of the Federal Republic of Yugoslavia into the State Union of Serbia and Montenegro in 2003. The law defines minorities, regulates the use of minority languages in communication with local authorities, education in minority languages and contacts with co-national abroad.

1.3.2 Implementation

a. Despite the advanced framework for minority right protection, **implementation has been lacking**. There is no Serbian law on national minorities, although different drafts have been under discussion. As a consequence, the commitments to minority rights are implemented through subject specific laws or not at all.

b. According to the Federal Minority Law, **minority languages** are to enjoy official status in municipalities with a minority share of the population larger than 15%. Municipalities also have the discretion to grant languages spoken by smaller communities' official status, as is the case in Novi Sad, where both Ruthenian and Hungarian enjoy official status, although the number of these minorities is far below 15%. Thus, in Vojvodina alone, some 38 of 45 municipalities have granted one or several minority languages official status. At the provincial level Hungarian, Slovak, Romanian, Ruthenian and Croatian enjoy official status besides Serbian. Outside Vojvodina, minority languages have official status in Bulgarian, Albanian and Bosniak-speaking regions in Serbia.

c. However, in many municipalities minority **languages have not received official status** despite numbers above 15% or the official status of a minority language fails to translate into practice. Romani is not recognized as an official language or language of instruction anywhere in Serbia, although some extra-curricula teaching has taken place in Romani. Officially, the lack of standardization is offered as the reason for the lack of official usage. Croatia and Bosnian have posed problems for recognition due to the proximity to Serbian. As a result, the introduction as an official language has been controversial in Vojvodina and Sandžak.

1.3.3 Institutions for the Legal Protection of Minorities

a. A key innovation in recent years has been the establishment of **National Councils for National Minorities**.⁸² National Councils are currently elected according to rules of order rather than as required by law. While the councils are

82. A list is available at: <http://www.humanrights.gov.yu/srpski/sektori/manjinska/nacionalnisaveti.htm>

foreseen in the Federal Law and the Human Rights Charter at the level of the state union, they have been only established in Serbia. Between 2002 and 2004 some eleven minority councils were set up for all larger minorities with the exception of Albanians. These councils are key representatives of the minorities in Serbia and receive (limited) funding from the state budget. The councils are foreseen to take on specific competences, which to date remain largely undefined.

b. A Serbian Council for National Minorities was established in September 2004 by the Serbian government, which includes the presidents of the National Councils and the selected government ministers, as well as the prime minister. The council operates as a consultative body and facilitates communication between government and minorities. It is responsible for monitoring the implementation of minority rights, discussing relevant laws and approving symbols and holiday for national minorities as proposed by the national councils.

Council for National Minorities

Petar Ladjevic, Secretary
Bulevar Mihajla Pupina 2,
11000 Belgrade, Serbia and Montenegro
Tel: +381 11 311 2410
Email: petar.ladjevic@sr.gov.yu

<http://www.humanrights.gov.yu/english/sektori/manjinska/nacionalnisaveti.htm>

c. Within the Serbian parliament, the Committee for Interethnic Relations is the key committee in charge of minority issues and “can consider proposed laws, rules, decisions and other matters regarding the realization of national rights and interethnic relations in the republic.”⁸³

Committee for Interethnic Relations

Bajram Omeragić,
President of the Committee,
Narodna skupština Republike Srbije
Kralja Milana 14,
11 000 Beograd, Srbija i Crna Gora
Tel: 011 / 32 22 /001 or /002 or /003

http://www.parlament.sr.gov.yu/content/lat/sastav/odbori_detalji.asp?id=49

d. The Serbian parliament established the office of the Ombudsperson in September 2005, responsible also for minority rights concerns.

As of April 2006, the Ombudsman has not been appointed and the office is not yet established.

83. Art. 49, Poslovnik, Narodna Skupština Srbije [Rules of Procedure of the National Assembly of Serbia], 2005.

e. At the local level, the main institution to give voice to minority concerns is, according to the 2002 Law on Local Self-Government, the **Council for Interethnic Relations**, which is set up in municipalities with one community larger than five per cent or all minorities jointly making up more than ten percent of the population. The council represents all communities larger than one percent of the population and works to promote ‘national equality’, but is also responsible for the overall task of municipalities to be responsible for “protection and realization of personal and collective rights of national minorities and ethnic groups.”⁸⁴ The municipal assembly is obliged to respond to proposals and reports of the council within 30 days. Furthermore, the councils have the right to initiate legal proceedings challenging the municipal assembly decisions or the lack of compliance with particular at the Constitutional Court.⁸⁵ In practice, the councils have, however, either not been set up or do not meet regularly.

1.4. Political Status of Minorities

1.4.1 Minority Political Parties

Democratic Leagues of Croats in Vojvodina (Croats)
 Democratic Alliance of Croats (Croats)
 Alliance of Vojvodina Hungarians (Hungarians)
 Democratic Party of Hungarians in Vojvodina (Hungarians)
 Sandžak Democratic Party (Bosniaks)
 Coalition List for Sandžak (Bosniaks)

1.4.2 Political Representation

a. Central Level

i. The representation of minorities in the **Assembly of Serbia and Montenegro** and the **Parliament of Serbia** are not secured by law. The assembly of the State Union does not include any MPs from minority parties in Serbia. Until 2004 the inclusion of minorities in the Serbian parliament was not specifically regulated. Instead, larger minority parties won seats independently or in coalition with other parties. The electoral system with a closed country-wide list and a five percent threshold has considerably disadvantaged the entry of minority parties to parliament.

84. Law on Local Self-Government, 20.2.2002, Art. 18, para. 28.

85. Ibid, Art. 63.

ii. Due to the larger proportion of minorities to the total population, the **Assembly of Vojvodina** includes a substantial number of members from minority communities (2004: 11 of 120 MPs of the Alliance of Vojvodina Hungarians, one MP from the Democratic Party of Hungarians in Vojvodina). A number of members of minority communities have also been elected to the assembly on the list of mainstream political parties.

b. Municipal Level

i. The **municipal assemblies** and the president of the municipality are directly elected. While most minorities are represented by local authorities in municipalities where they constitute a significant share of the population, Roma remain marginalized throughout the country. Only in a few municipalities are Roma represented in the municipal or city council or government.

ii. The **Coordination Centre for Southern Serbia** was established by the Federal and Serbian government following the armed conflict in the Albanian inhabited municipalities of Preševo, Bujanovac and Medveđa. Only in early 2005 were Albanians and Roma from the municipalities included in the body that had earlier included mostly government officials and members of the army.

1.5 Education

1.5.1 Access

a. Minorities have access to education in minority languages at the **primary and secondary level of education**. In the field of education, the minimum number of pupils for minority language classes is 15 in primary and secondary schools, although the ministry of education has the discretion to open classes also for less than 15 pupils.

b. Education for minorities is most developed in **Vojvodina** due to a more minority-friendly policy in recent years and a long-standing tradition of minority inclusion. In 2003-2004, some 5% of elementary schools taught exclusively in a minority language (Hungarian, Slovak, Romanian or Ruthenian), whereas nearly 30% of schools organized classes in two or more languages. The level of minority language classes at secondary level is somewhat lower, but still 9.81% of all students attend minority language classes.

For gender mainstreaming and equal opportunities in education

EC Toolkit on Mainstreaming Gender Equality in EC Development Cooperation, Section 1, Chapter 1; Section 2 Chapter 1.4.

<http://ec.europa.eu/comm/europeaid/projects/gender/toolkit/content/toolkit.htm>

1.5.2 Discrimination and Challenges

a. **The level of education varies greatly** between ethnic minorities. While some minorities either largely follow the population average (e.g. Croats) or have a higher than average level of education (e.g. Montenegrins, Jews), the profile of some minorities is dramatically worse than the population average. More than 60 percent of Roma did not complete their primary school education and more than 90 percent did not attend any schooling beyond primary school. However, Vlachs, Rumanians and Bulgarians, as well as a number of smaller minorities also have a ratio of more than 30 percent without complete primary education.

b. Surveys suggest that 37% of Roma children do not speak Serbian and nearly half do not have the necessary knowledge to begin schooling.⁸⁶ As a result, **Roma children are sent to segregated classes** or schools for children with special needs, which effectively limits the ability to obtain a full education. Throughout Serbia, some 78% of Roma pupils never finish school, as they are required to work and due to marginalization within the educational system.

1.6 Employment

1.6.1 Access

a. The **employment structure** between minorities and the majority differs significantly at times. While the ratio of employed among the active population was around 70 percent in 2002, the ratio lies at less than 50 percent for Bosniaks, Vlachs, Romanians, Albanians and Roma. In the case of Bosniaks and Albanians, alternative employment mostly comes in the form of individual farming, whereas over a third of Roma, according to official statistics, hold an unregulated job.⁸⁷

b. The economic situation is the most precarious for Roma, with an estimated unemployment rate twice the estimate of the 30% among the general population in 2003. A survey of 593 Roma settlements indicates that only 18.4 % of the inhabitants hold a job, whereas 40% live off seasonal jobs or other unregulated employment. In general, unemployment among Roma women is considerably higher than among men and Roma women generally are in a particularly

86. Miroslav Brkic, Andrijana Djuric, Roma people between security and insecurity in Serbia, IUC Journal of Social Work and Practice, 10 (2004/5), http://www.bemidjistate.edu/sw_journal/issue10/articles/5_serbia.htm#3

87. Data based on the 2002 census, analyzed in Ministry for Human and Minority Rights, Etnički mozaik Srbije, 2004.

vulnerable position. As a consequence of the weak employment situation, **more than 60 % of Roma live below the poverty line** (\$4 per day) and lack access to basic health care.⁸⁸

1.6.2 Discrimination

- a. Although **Serbia lacks a comprehensive anti-discrimination law**, discrimination against minorities is prohibited under a number of laws, including the Labor Act which prohibits disadvantaging persons seeking employment, among others on the basis of their, nationality, or race.
- b. **Courts and prosecutors have been generally passive in discrimination cases**, which most frequently affect Roma. Due to the challenges in regard to education that Roma are facing, exclusion from employment is frequently the consequence of a broader form of exclusion.
- c. Most other minorities are not impacted by open discrimination, but rather by the **legacy of the 1990s** which results in the under-representation of minorities in state administration and socially-owned enterprises.

1.7 Social Attitudes

1.7.1 A key problem in Serbia is the **legacy of nationalism** and the authoritarian Milošević regime. Minorities have been the frequent target of attacks by government, media and nationalist groups. In combination with an ethnocentric education system, ethnic distance between majority and minorities remains high. A majority of Serbs in opinion polls reject close relatives marrying a member of any of the largest minorities. The Albanian minority is particularly strongly rejected by the majority. Similarly, less than an eight per cent of the majority trust Albanians or the community's loyalty to the state. In general, the majority has little trust in all main minorities and their loyalty to the state.

1.7.2 **Social attitudes towards all key minorities have worsened** since 2003. The decline in attitudes towards minorities is a stark warning that democratic transition and the end of armed conflict does not per se lead to improved interethnic relations. The decline since 2003 can be explained by the combination of a number of factors: a conservative backlash since 2003; interethnic incidents in Vojvodina in 2004 have been exploited by some mainstream media to accuse minorities and

88. Ministry of Human and Minority Rights & Ethnicity Research Center, Romany Settlements, Living Conditions and Possibilities of Integration of the Roma in Serbia, Belgrade, December 2002. Available at: http://www.humanrights.gov.yu/files/doc/Romi_u_Srbiji-ENG.doc

their political leadership of exploiting the incidents; riots in Kosovo in March 2004 against Serbs worsened interethnic relations in Serbia, not only towards Albanians, but also towards Muslims.

1.7.3 The **incidents in Vojvodina** in 2004 and the riots in Belgrade, Novi Sad and Niš in March 2004 in response to the Kosovo incidents highlight the fact that hostile attitudes towards minorities easily translate into violence. In the period January–November 2004, the Vojvodina Secretariat responsible for National Minorities noted some 182 violent incidents against minorities. In most cases these involved damage to property (such as churches associated with minorities) or graffiti. The incidents mostly stopped by the end of 2004, with some sporadic attacks continuing in 2005. The inability or unwillingness of the police to investigate the incidents and the reluctance of many mainstream politicians to condemn the incidents contributed greatly to the sense of uncertainty which many minorities experienced.

1.8 *EAR Priority Areas*

1.8.1 *Democratic Stabilization*

a. Internally Displaced Persons

Roma, Ashkalija and Egyptians are particularly affected communities. According to a joint study of the Ministry for Human and Minority Rights and the Ethnicity Research Centre from 2002, some 46,238 Roma, Ashkalija and Egyptians live as IDPs in Serbia. Many lack adequate documentation to enjoy full rights as IDPs. Furthermore, many speak primarily or only Albanian, which reduces access to services, employment and education.⁸⁹ Finally, many Rom IDPs, while unable to return to Kosovo, are confronted with discrimination in Serbia.

b. Social Integration of Minorities

Many multiethnic regions in Serbia are less marked by the social discrimination by the majority, but rather by **social segregation between communities**. Social integration thus has to target both minorities and majorities and create points of communication for both communities. The parallels between minorities and majorities exist in regard to Serbs and Hungarians in Vojvodina, in Sandžak between Serbs and Bosniaks and in Southern Serbia between Albanians and Serbs. The social integration of Roma requires a different set of priorities, as majority discrimination, as well as the coincidence with social and economic marginalization reinforces the segregation of the community.

89. Ibid.

c. Anti-discrimination and Equal Rights Legislation

In practice, the Serbian Supreme Court has repeatedly ruled in favour of minorities who have been victims of discrimination. One particular problem in Serbia has been the non-implementation of the Law on Public Information's prohibition of hate speech and social discrimination in the media. As a result, many media outlets have regularly used derogatory language or engaged in hate speech against minorities.⁹⁰ This practice suggests that **anti-discrimination legislation** requires strict supervision of implementation, as otherwise it might be not fully or only sporadically transposed into reality.

d. Public Service Broadcasters

Minority issues take three dimensions a) **programming for minorities**; b) the nature of **reporting on minorities** c) and the **inclusion of minorities** in the structures of the PSBs. In addition to the greater attention to the needs of minorities in terms of programming, PSBs hold a particular responsibility in promoting tolerance and refraining from hate speech. Thus, reform initiatives have to incorporate firm standards which prevent hate speech against minorities. Finally, the organization of public broadcasting needs to reflect minority issues. As the Advisory Committee (→ *Section 1- 1.3.2.a*) of the FCNM noted in its opinion on Serbia and Montenegro “the role of a legitimate Broadcasting Council is also essential in ensuring balanced reporting on minority issues.”⁹¹

1.8.2 Good Governance and Institution Building

a. Public Administration Reform

Generally speaking, **minorities remain underrepresented in civil service**. The discrepancy between employment even includes regions, such as Southern Serbia, where concerted efforts have been

EC Multi-Annual Indicative Programme
2005-2006 for Serbia and Montenegro,
Chapter 2.3.

[http://www.eur.eu.int/montenegro/main/
documents/MIP2005-2006consolidated.pdf](http://www.eur.eu.int/montenegro/main/documents/MIP2005-2006consolidated.pdf)

made to include the Albanian minority in the police service. Reasons for the under-representation of minorities are multi-faceted and cannot be reduced to

90. Tamara Spahić, Hate Speech in the Serbian Press. Feeding on Incidents, Media Online, 8.6.2005. Available at: <http://www.mediaonline.ba/en/?ID=373>

91. Advisory Committee on the Framework Convention for the Protection of National Minorities, Opinion on Serbia and Montenegro, Strasbourg, 27.11.2003. para. 62. Available at: [http://www.coe.int/t/e/human_rights/minorities/2._framework_convention_\(monitoring\)/2._monitoring_mechanism/5._Comments_by_the_States_concerned/1._First_cycle/1st_comments_SAM.asp#TopOfPage](http://www.coe.int/t/e/human_rights/minorities/2._framework_convention_(monitoring)/2._monitoring_mechanism/5._Comments_by_the_States_concerned/1._First_cycle/1st_comments_SAM.asp#TopOfPage)

discrimination (past or present alone). Thus, quotas or preferential treatment of minorities alone is unlikely to improve the share of minorities in the public administration.

b. Police Reform

As the police are particularly burdened with an **authoritarian legacy**, this sector is a priority. Not only is the inclusion of minorities a key minority issue, but also the awareness of police officers from the majority population about minorities.

Thus, training and education need to include the mainstreaming of human and minority rights in police work. Interethnic incidents in Vojvodina particularly highlight the need of effective and minority-sensitive policing to prevent escalation.

EC Multi-Annual Indicative Programme 2005-2006 for Serbia and Montenegro, Chapter 2.3.2.

<http://www.eur.eu.int/montenegro/main/documents/MIP2005-2006consolidated.pdf>

c. European Integration Process

Training and public awareness activities should incorporate a **minority dimension**, in particular in reference to the experiences of the new members of the EU.

d. State Union Level Institutions

The absence of strong minority rights institutions at the level of Serbia further enhances the importance of the **State Union Ministry for Human and Minority Rights**. At the same time, the ministry has been suffering from weak administrative capacities due to its relatively small size and broad mandate. (Pending referendum on Montenegro separation 21 May 2006, the fate of the Ministry is to be decided).

e. Decentralization and Local Government

Local government reform can provide for services which are closer to the needs of citizens in general, and minorities in particular, but at the same time, governmental supervision over the implementation of certain minority rights standards is often rendered more complex. Local infrastructure projects might also aid minority communities, but can also disadvantage minorities, especially if illegal Rom settlements are, for example, destroyed in the process. Furthermore, some local service delivery might require particular measure to be made accessible to minority communities, such as the use of language.

f. Energy, Environment and Infrastructure

These priority areas do not primarily impact minority issues. At the same time, they might have **long-term repercussions on minorities**. Thus, projects need to consider whether minorities are also beneficiaries of some of the measures, or whether, due to geographical disbursement (or other regions), only majority communities benefit from these measures.

g. Social Development

This has a large impact on minorities, which are particularly affected by **unemployment and limited access to education**. As noted earlier, illiteracy among Roma stands at nearly 20% of the population above the age of 10, with the average age less than 42. The illiteracy is linked to low levels of education (only 0.3% of Roma have completed higher education). This situation has severely limited the social integration and economic advancement of Roma in society.

Further Reading

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2. Montenegro - Minority Needs Analysis

2.1 Statistics

Ethnic Composition							
	Montenegrin	Muslim	Bosniak	Serb	Albanian	Yugoslav	Other
1991	61.86%	14.57%	-	9.34%	6.57%	4.25%	4.4%
2003	43.16%	3.97%	7.77%	31.99%	5.03%	0.30%	7.77%

Representation of Minorities in State Institutions (2003)					
	Total	Albanians	Bosniaks/ Muslims	Croats	Others
Population		5.3%	11.74%	1.1%	n/a
MPs	75	5.33%	6.67%	n/a	n/a
Civil Servants	6.74%	0.79%	5.17%	0.79%	0.54%
Police	4384	Total minorities: 4.77%			
Office of State Prosecutor	54	1.85%	12.96%	1.85%	n/a

2.2 Overview

2.2.1 **The government of Montenegro** has committed itself to the key minority rights and human rights obligations which the State Union has undertaken, including all main international obligations and a liberal set of rights outlined in the Constitutional Charter. The government of Montenegro has also committed itself to the improvement of the status of Roma in the framework of the decade of Roma Inclusion.⁹² ➔ *Section 1- 1.2 , 1.3*

2.2.2 The **non-recognition of the 2002 Federal Law on National Minorities** resulted in the absence of any minority specific law in force in Montenegro, rendering the implementation of minority rights difficult.

2.2.3 A key gap in Montenegro is the **lack of a clear legal framework for minority rights** protection and thus a right-based set of mechanisms which is applied equally to all minorities. A comprehensive minority law has been under preparation for years and was finally approved and adopted just a week before the referendum. The law would fill this existing gap.

92. See <http://www.romadecade.org/en/download.php?action=20&id=4>

2.2.4 Challenges to minority issues in Montenegro derives from three factors. First, the fact that minority rights are anchored at the State Union level, which is weak in Montenegro and not uncontested, results in weakening in the implementation of international standards. Second, paradoxically, the largely conflict-free minority-majority relations reduce the recognition of the need to secure minority rights from a stability perspective. Third, there is a **general degree of neglect of minority issues**, as they are overshadowed by conflicts over status.

2.2.5 While **Roma are suffering from social and economic exclusion** on the entire territory of Montenegro, a number of other minorities (Albanians and Bosniaks/Muslims) are residing in underdeveloped peripheral regions, facing problems similar or identical to the population majority.

2.3 Legal Status of Minorities

2.3.1 Legal Framework

- a. Minority Rights granted in the Montenegrin Constitution (1992):
 - Right to protect the group identity (Art. 67)
 - Use of language in schools and access to information (Art. 68)
 - Use of symbols (Art. 69)
 - Right to assembly and form organizations and receive support from kin state (Art. 70)
 - Syllabi and textbooks in culture and history of minority (Art. 71)
 - Use of Language in State institutions (Art. 72)
 - Representation in civil service, state institutions and local self-government (Art. 73)

b. The **legal framework for the protection of minority rights in Montenegro is complex** due to the uncertain status of the republic and fragile nature of the State Union. Montenegro is bound by the same human and minority rights standards of the State Union Charter and the Human Rights Charter as outlined in the case of Serbia ➔ *Section 2 - 1.3*. The **1992 constitution** is generally more liberal and minority friendly than the Serbian counterpart, but once more, specific legislation implementing the standards are lacking.

2.3.2 Implementation

- a. Montenegro has **not implemented the Federal Law on National Minorities**, as well as other legislation of the joint state passed before the creation of the state union in 2003.

b. In Montenegro a Law on National Minorities has been under discussion for many years due to inter-ethnic controversies. As a result, a newly adopted **law specifically addressing minority rights** has already been contested as unconstitutional. In relation to separation referendum, this precludes providing for the establishment of minority specific institutions, such as minority councils or other forms of minority self-governance.

i. The absence of a Montenegrin minority law and the non-recognition of the Federal minority law have made the implementation of **minority rights an ad hoc affair**, not based on clear universal standards.

ii. There is a **general lack of rules and procedures** to establish clear minority rights standards in the field of education, non-discrimination, use of languages and media.

iii. Although Montenegro has had a high degree of minority inclusion in government and the public administration, the **implementation** of minorities, in particular in the field of education and use of languages **is lagging behind**. This is partly the consequence of the fact that the language spoken by Bosniaks/Muslims and Croats has until 1991 not been considered to be different from that spoken by the majority.

iv. There is **no clear legal provision for the recognition of minority languages** in municipalities other than in municipalities where minorities constitute a majority. As a consequence, only one municipality in Montenegro is officially bilingual. Ulcinj, with an Albanian majority, recognizes Albanian next to Serbian as second language. In other municipalities with a strong Bosniak/Muslim or Croat population neither Croatian nor Bosnian are recognized. As the Latin alphabet is widely used, the non-recognition of Bosnian and Croatian is less problematic than it has been in some Serbian municipalities.

2.3.3 Institutions for the Legal Protection of Minorities

a. The key institution in Montenegro for coordinating minority rights has been the **Ministry for Protection of the Rights of National and Ethnic Groups**, which has been headed by ministers from the Albanian minority since its establishment in 1998. The ministry is very small and has been struggling to impact minority issues in Montenegro.

b. Another key institution is the **Republican Council for Protection of Rights of Members of National and Ethnic Groups** which is presided over by the president and includes members appointed by parliament and key resources ministries. The institution and others, however, have often not communicated with and are not

fully representative of all minorities. As result, they have often been seen as being biased or ineffective.

c. The **committee for inter-ethnic relations** in parliament is the main parliamentary body in charge of minority issues.

d. The **State Union Ministry for Human and Minority Rights** is represented in Montenegro through a deputy minister, although the work of the ministry focuses mostly on Serbia. (the status may change pending separation).

e. Finally, Montenegro established the office of the Ombudsperson in 2003, in charge of receiving citizens' complaints on authorities and attempt to address breaches of human rights committed by authorities. The tasks include monitoring the implementation of international standards, gathering information on laws in the field of human rights, launching cases in the instances of human rights violations and raising awareness on the protection of human rights. A deputy particularly in charge of minority rights has been appointed in late 2004.

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E-mail: ombudsman@cg.yu

f. Another institution relevant for minorities is the **Centre for the Preservation and Enhancement of Cultures of National and Minority Groups**. While established in 2001, the institution has been inactive. The 2003 Law on Local Self-government does not foresee any special institutions to include minorities in municipalities, but requires municipalities with a majority or substantial number of members of minorities to allow the use of minority languages.

2.4 Political Participation of Minorities

2.4.1 Minority Political Parties (2004)

Democratic Union of Albanians (Albanian)
Democratic Alliance of Montenegro (Albanian)

2.4.2 Political Representation

a. Central Level

i. The political representation of minorities in Montenegro is guaranteed by law in case of the Albanian minorities and takes place in practice both through minority parties (for Albanians) and inclusion in mainstream parties in the case of other minorities. The **electoral law** provides for a lower threshold for the registration of candidates in local and republican elections for Albanian candidates. In 1998 five seats (out of 78) were set aside for Albanian voters. These five seats were to be elected in polling stations where there was an Albanian majority. According to the system, parties not reaching the threshold had their votes transferred to the larger electoral unit, while those not gaining seats in the overall electoral unit—presumably Albanian parties—received these votes for the allocation of the reserved seats. While the number was reduced to four in 2002, this system has been in use in all parliamentary elections since 1998. This system ensured the entry to parliament of the two main Albanian parties. Due to both legal ambiguities and the fact that it benefits only one minority, rather than all minorities equally, this system has led to repeated criticism by OSCE/ODIHR election observers.⁹³

ii. **Minority parties have generally been consistently weaker** within their community than in Serbia. Bosniak/Muslim minority parties only entered parliament in 1990 in a coalition with an Albanian grouping and independently in 1996, gathering 3.5% of the vote. The vast majority of the Bosniak/Muslim population has voted for mainstream parties which advocated a multiethnic program and usually supported the republic's independence. The Albanian community supports minority parties more strongly, but even here a majority (2001: approximately 2/3) support mainstream political parties. Members of minorities have thus held high offices in parliament and government, including a ministry for the protection of minority rights, which has been run by an Albanian since its creation in 1998. In the current Montenegrin parliament of 75 members, 12 are members of minority communities. In addition, the vice-president of parliament is a Bosniak and one deputy Prime Minister and two ministers are from minorities. Nevertheless, minorities have been generally underrepresented in government and parliament.

93. OSCE/ODIHR, FRY/Montenegro, OSCE/ODIHR Assessment of Amendments to the Legislative Framework for Elections, Warsaw, 9.8.2002, available at: http://www.osce.org/documents/odihr/2002/08/1605_en.pdf

b. Municipal Level

i. At the local level, minorities, with the exception of Roma, are frequently represented in municipal councils, governments and administration. However, minorities have been insufficiently represented in sensitive fields, such as policing, and in offices of state institutions in municipalities with a large minority community. Furthermore, minority members tend to work in lower ranking positions in the public administration.

2.5 Education

2.5.1 Access

a. Current legislation merely provides for education in the minority language in municipalities “where members of national or ethnic groups account for the majority or a significant proportion of the population.” Thus, in Montenegro **only members from the Albanian minority benefit from minority rights in the field of education**. As both Croatian and Bosnian, the languages of two other main minorities, remain unrecognized in Montenegro, education in those languages or cultures do not take place.

b. **Education in Albanian language**, however, strongly relies on translated textbooks from Serbian and devotes little space to Albanian history and culture (2.5% of classes in primary and 5.9% in secondary schools). The establishment of teacher training in Albanian has been the cause of tensions between the Albanian community and the government. At first the government opened an Albanian language section in Nikšić in 2003, but it was boycotted by Albanians for its distance from the major Albanian settlement areas. The programme re-opened in 2004 in Podgorica with 45 students and faculty from the University of Montenegro and the University of Shkoder (Albania).

For gender mainstreaming and equal opportunities in education

EC Toolkit on Mainstreaming Gender Equality in EC Development Cooperation, Section 1 Chapter 1; Section 2 Chapter 1.4.

<http://ec.europa.eu/comm/europeaid/projects/gender/toolkit/content/toolkit.htm>

c. As elsewhere, a key challenge is the provision of education for Roma. According to estimates from NGOs, only 8% of the over 10,000 Roma under 18 attend school. In 2004, some 1,066 Roma attended elementary school and there were only 35 Rom children in secondary schools and 7 attended university. School attendance is

rendered particular difficult for displaced Roma from Kosovo, of whom 60% speak Albanian and nearly 40% Romani as their mother tongue. The inadequacies of the current state of education for Roma is evidenced by the fact that according to an announcement made in 2004 by the Montenegrin Education Ministry, **76% of Roma children are illiterate.**⁹⁴

2.6 Employment

2.6.1 Access

a. Montenegro has undergone a long period of economic crisis and decline, resulting from war, sanctions and, later, tense relations with Serbia. Since 1998, Montenegro has pursued its own economic and financial policy, but **the benefits of partial reform and liberalization have failed to be visible to most Montenegrin citizens.** Most minorities, with the exception of Roma, share the overall economic and social situation with the majority. While discrimination against minorities has occurred in the state and private sectors, these cases have been relatively few and mostly took place in the early 1990s.

b. Roma find themselves in the most difficult economic and social situation. According to a survey in 2003, some 92% of all Roma households cannot cover basic food needs and 75% have no running water in their homes.

2.6.2 Obstacles/Discrimination

a. Most **Roma from Kosovo** have applied for republican citizenship and do not plan to return to Kosovo. However, the unregulated citizenship situation, frequently a result of Roma having lost relevant documentation in the war or not having it in the first place, has aggravated the socio-economic position of the community. Unemployment among IDPs from Kosovo is 43.3% (general average 17%), with employment being mostly of temporary nature.

94. Belgrade Centre for Human Rights. Human Rights in Serbia and Montenegro Report 2004. Belgrade: Belgrade Centre for Human Rights, 2005, 332-333.

2.7 EAR Priority Areas

2.7.1 Democratic Stabilisation

a. Minority-related legislation

Considering the non-recognition of some legislation from the Federal Republic of Yugoslavia, Montenegro has some key legislative gaps in the field of human and minority rights. A key priority is the adoption and implementation of **a minority law** in Montenegro, as minority rights are nowhere regulated outside of the very general reference in the constitution. The absence of a law has been caused by the lack of agreement (and quality) of a number of draft laws and arguably the lack of prioritization. The key to advancing minority legislation lies with securing high-level political support and supporting the legislative process. Finally, if not implemented, new laws may not translate into any practical changes in the field of minority rights protection.

b. Anti-discrimination Legislation

Montenegro lacks systematic and comprehensive anti-discrimination legislation and discrimination persists in all fields (employment, education, etc.).⁹⁵ The fact that breeches of international conventions can be taken to local courts means, however, the discrimination can be challenged. The key challenge for tackling discrimination thus extends beyond anti-discrimination legislation, but awareness-raising among possible victims (i.e. primarily Roma) and court and prosecutors to ensure the establishment of a practice to combat anti-discrimination.

c. IDPs

Supporting IDPs is of particular concern in Montenegro considering that Roma, Ashaklija and Egyptians are, according to the PRSP and the UNDP, the most impoverished community in Montenegro.⁹⁶ Numbering some 7,000, these IDPs constitute not only one third of the entire Rom population, but also a significant group within Montenegro at large (1%). Considering the low prospects of return and social marginalization within Montenegro, this community is probably the most vulnerable group in Montenegro.

EC Multi-Annual Indicative Programme 2005-2006 for Serbia and Montenegro, Chapter 1.1.

<http://www.ear.eu.int/montenegro/main/documents/MIP2005-2006consolidated.pdf>

95. Committee on Economic, Social and Cultural Rights, Conclusions and recommendations, Serbia and Montenegro, U.N. Doc. E/C.12/1/Add.108 (2005).

96. Government of Montenegro, Poverty Reduction Strategy Paper, November 2003; ISSP, UNDP, Household Survey of Roma, Ashkalija and Egyptians, Refugees and IDPs in Montenegro, 2003.

2.7.2 Civil Society and Media

a. Civil Society Organizations

Civil society has had some key advocacy success, including the stop to the Tara dam project. A network of 12 Rom NGOs was actively involved in the development of the Action Plan for the Decade of Roma Inclusion.

There is a clear need to advance a similarly **cooperative relationship between minority NGOs and government** in other fields of minority issues.

EC Multi-Annual Indicative Programme 2005-2006 for Serbia and Montenegro, Chapter 1.2.

<http://www.eur.eu.int/montenegro/main/documents/MIP2005-2006consolidated.pdf>

b. Minority Programming

Specific **programming for minorities in the media** remains rare due to Montenegro's small size. The Albanian minority is the only community which has in recent years received access to minority-specific broadcasting and media. As pointed out by the Advisory Committee of the FCNM "other national minorities in Montenegro merit increased attention in the on-going process of developing a public service broadcasting service." Furthermore, access to information for minorities is only inadequately guaranteed in current legislation.⁹⁷

2.7.3 Good Governance and Institution Building

a. Ombudsperson

While the office was established in 2003, a deputy in charge of minority issues was only appointed in late 2004. As a consequence, the 2004 report notes only two (of 373) complaints in the field of minority rights. The report points out that "small number of complaints referring to minority rights does not mean that the issues of minority rights are regulated in an adequate way in Montenegro."⁹⁸ An **effective ombudsperson institution** allows for the identification of weaknesses in the institution in regard to human and minority rights and appropriate reforms.

97. Advisory Committee on the Framework Convention for the Protection of National Minorities, Opinion on Serbia and Montenegro, Strasbourg, 27 November 2003 ACFC/INF/OP/I(2004)002.

98. Protector of Human Rights and Freedoms, Republic of Montenegro, Annual Report 2004, March 2005.

b. Courts

The court system suffers from a **backlog of cases** and other forms of inefficiency which affect all citizens equally. In addition, the confidence in courts (as well as other state institutions) is particularly impaired among marginalized communities, such as Roma. Thus, particular efforts might be required to build confidence between state institutions and Roma. Roma in particular, but also Albanians and Bosniaks/Muslims, are underrepresented in courts.⁹⁰

EC Multi-Annual Indicative Programme 2005-2006 for Serbia and Montenegro, Chapter 2.1.1.

<http://www.eur.eu.int/montenegro/main/documents/MIP2005-2006consolidated.pdf>

c. Public Administrative Reform

Reform will have to secure adequate representation for **minorities in public administration**. In particular in municipalities, which have a significant share of minorities, under-representation is dramatic. Under-representation is particularly problematic in the police force. In Podgorica, for example there were only eight Albanians in the police force in 2003, although Albanians make up 8.5% of Podgorica's population.¹⁰⁰ Thus, re-cruitment policies have to particularly target minority communities to overcome some of the current inadequacies.

EC Multi-Annual Indicative Programme 2005-2006 for Serbia and Montenegro, Chapters 2.3.1 and 2.3.2.

<http://www.eur.eu.int/montenegro/main/documents/MIP2005-2006consolidated.pdf>

d. Decentralization

A key concern of some minority groups is the **decentralisation and strengthening of local governance**, as these can be more responsive to local needs of minority communities. This applies particularly to municipalities inhabited by a majority from a minority community. Beyond decentralisation there is a need to include minority communities into local governance. There are no specific institutions to represent minority interests at the municipal level, unlike the

90. Humanitarian Law Centre, Shadow Report on the Implementation of the Framework Convention for the Protection of National Minorities in Serbia, Montenegro, and Kosovo, 2003.

100. Humanitarian Law Centre, Shadow Report on the Implementation of the Framework Convention for the Protection of National Minorities in Serbia, Montenegro, and Kosovo, 2003.

Council on Interethnic Relations in Serbia. In addition, service delivery to Rom communities requires special attention and active inclusion of Roma into the municipal services to secure effective service provision.

e. Health Care Reform

This affects Roma in particular, who often have **inadequate access to health care**. As the action plan of the Decade of Roma Inclusion of the Montenegrin government suggests, there is a particular need to stimulate “formal relations between health professionals and local representatives of Roma population in order to identify specific Roma needs.”¹⁰¹

2.7.4 Energy, Environment and Infrastructure

These sectors do not primarily impact minority issues. At the same time, they might have either long term repercussions on minorities. In the case of Montenegro, these sectors impact particular minorities residing in **economic underdeveloped and peripheral regions**, such as Bosniaks/Muslims in Northern Montenegro and Albanians in the Southern region of Montenegro.

2.7.5 Social Development

This largely impacts Roma and Ashkalija, Rom and Egyptian IDPs from Kosovo. While the government action plan foresees the introduction of affirmative action measures to promote the employment rates of Roma, key tools include vocational and educational training to increasing the number of Roma who can find employment both in the private sector and in public administration.

101. Government, Republic of Montenegro, National Action Plan for “Decade of Roma Inclusion, 2005-2015” in the Republic of Montenegro, Podgorica, November 2004.

Further Reading

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<http://dev.eurac.edu:8085/mugs2/do/blob.html?type=html&serial=1052743455589>

Belgrade Centre for Human Rights, Human Rights in Serbia and Montenegro 2004. Belgrade, 2005, www.bgcentar.org.yu/

Florian Bieber (ed.), Montenegro in Transition. Problems of Identity and Statehood (Baden-Baden: Nomos, 2003), pp. 159-180, www.boeckler.de/pdf/p_seer_montenegro.pdf

Humanitarian Law Centre, Shadow Report on the Implementation of the Framework Convention for the Protection of National Minorities in Serbia, Montenegro, and Kosovo. http://www.minelres.lv/coe/report/FRY_NGO.htm

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Serbia and Montenegro, The First Report by the Federal Republic of Yugoslavia on the Implementation of the Framework Convention for the Protection of National Minorities, ACFC/SR(2002)003, Belgrade, 2002, www.coe.int/t/e/human_rights/minorities/

UNDP, Household Survey of Roma, Ashkealia and Egyptians, Refugees and Internally Displaced Persons. Podgorica, 2003, www2.undp.org.yu/montenegro/

Government of Montenegro

Official Presentation of the Republic of Montenegro, www.montenegro.yu

Assembly of the Republic of Montenegro, www.skupstina.cg.yu

Government of the Republic of Montenegro, www.vlada.cg.yu

Ministry of Foreign Affairs of the Republic of Montenegro, <http://www.vlada.cg.yu/eng/mininos/>

Government of Serbia and Montenegro

Council of ministers, www.gov.yu

President of the Serbia and Montenegro, www.predsednik.gov.yu

Ministry of Foreign Affairs, www.mfa.gov.yu

Ministry of Human and Minority Rights, www.humanrights.gov.yu

Ministry of International Economic Relations, www.umier.gov.yu

Ministry for the Protection of Minority Rights, www.minmanj.vlada.cg.yu/

Directorate for information, www.info.gov.yu

Coordination center for Kosovo and Metohija, <http://www.kc.gov.yu/>

Serbia and Montenegro European Integration Office, <http://www.feio.sv.gov.yu/code/navigate.php?Id=1>

Bureau for Statistics, www.szs.sv.gov.yu

Customs Administration, www.fcs.yu

Archives of the Serbia and Montenegro, www.arhiv.sv.gov.yu

Development of Environmental Legislation in Serbia and Montenegro, www.yugolex.org.yu

Government of Republic Serbia

Ministry of Finance and Economy, www.mfin.sr.gov.yu

Ministry of International Economic Relations, www.mier.sr.gov.yu

Ministry of Social Affairs, www.msoc.sr.gov.yu

Ministry of Economy and Privatization,
<http://www.mpriv.sr.gov.yu/code/navigate.asp?Id=20>

Ministry of the Interior Affairs, www.mup.sr.gov.yu

Ministry of Culture, <http://www.kultura.sr.gov.yu/eng/>

The EU Integration Office, www.seio.sr.gov.yu/code/navigate.asp?Id=20

Information Sources

Serbia and Montenegro

ANEM - Association of Electronic Independent Media, www.anem.org.yu

Balkan Times, www.balkantimes.com

Belgrade Open School, <http://www.bos.org.yu/eng/>

Belgrade Centre for Human Rights, www.humanrights.dk/inter/belgrade/

Belgrade Chamber of Economy, www.kombeg.org.yu/eindex.htm

Belgrade Centre for European Integrations (BeCEI), www.becei.org

Center for Antiwar Action, www.caa.org.yu

Centre for Democracy and Human Rights, www.cedem.cg.yu

Center for Democracy Foundation, www.centaronline.org/?xp36=en

Center for Development of Serbia, www.razvojsrbije.org.yu

Centre for EU Law, University of Kragujevac, Kragujevac, www.kg.ac.yu/

Civil initiatives/FENS, www.gradjanske.org/eng/index.php

European Movement in Serbia, www.emins.org/

Fund for the Development of Democracy, www.fondbmb.org

Fund for an Open Society, www.fosserbia.org

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MAP USAID/ORT, www.ortmap.org/

Media Center, www.yumediacenter.com

National Library of Serbia, libris.nbs.bg.ac.yu/

NUNS - Independent Journalists' Association of Serbia, www.nuns.org.yu

Open Society Institute, www.fosyu.org

Public Administration and Local Government Centre, www.palgo.org/

Serbian Academy of Arts and Sciences, <http://www.sanu.ac.yu/English/SASA.htm>

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The Chamber of Economy of Belgrade, www.kombeg.org.yu

The Chamber of Economy of Montenegro, www.pkcg.org/set.php

The Chamber of Economy of Serbia, www.pks.co.yu

The Chamber of Economy of Vojvodina, www.pkv.co.yu

UNICEF Serbia and Montenegro, www.unicef.org/scg/index.html

University of Belgrade, www.bg.ac.yu/

University of Niš, www.junis.ni.ac.yu/

University of Novi Sad, www.ns.ac.yu/

3. UN-administered Kosovo - Minority Needs Analysis

3.1 Statistics

Ethnic Composition (*estimated, census boycotted by Albanians)							
	Albanian	Serb	Montenegrin	Turkish	Muslim	Other	Total
1981	77.5%	13.2%	1.7%	0.8%	3.7%	4.1%	1,588,400
1991*	90.0%	8.0%	-	-	-	2.0%	2,000,000

Political Representation (at the central level)									
	Albanian				Serb	Bosniak	RAE	Turk	Gorani
	LDK	PDK	AAK	Other					
2001	55	31	10		31	3			
2004	47	30	9	15	10	1	4	3	1

School Enrollment by Ethnicity (2005)							
	Albanian	Bosniak	Ashkalija/ Egyptian	Roma	Croat	Turk	Gorani
Preschool	17,159	186	68	25	0	105	50
Primary	315,699	4,363	3,090	1,008	38	2,365	642
Secondary	68,500	666	76	33	0	465	19

Teachers by Ethnicity (2005)								
	Albanian	Serb	Bosniak	Ashkalija/ Egyptian	Roma	Croat	Turk	Gorani
Preschool	560	6	0	0	0	7	0	0
Primary	16,502	311	14	4	0	111	4	62
Secondary	4,179	74	1	0	0	44	0	16

Registered Unemployed			
	Albanians	Serbs	Others
2002	237,936	6,838	12,733
2003	259,713	8,769	13,865

Proportion of Unemployed							
	Serb	Bosniak	Roma	Ashkalija	Turks	Montenegrin	Other
2002	34.9%	26.8%	16.3%	14.0%	5.2%	1.6%	1.3%
2003	38.7%	25.3%	15.4%	13.6%	4.8%	1.1%	1.0%

Proportion of Unemployed						
	Albanians	Serbs	Bosniaks	Ashkalija/Egyptian	Roma	Gorani
1999	0	1,826	57	0	20	3
2000	27	679	0	533	214	0
2001	294	966	149	884	390	73
2002	245	1,549	393	1,182	287	145
2003	8	762	457	534	407	134
2004	574	5,782	1,056	3,133	1,318	355
% of Total	4.7%	47.3%	8.6%	25.6%	10.8%	2.9%

3.2 Overview

3.2.1 The ethnic composition of Kosovo is still up for debate. There is a general consensus on the approximate percentage of each ethnic community,¹⁰² but given that a reliable census has not been conducted since 1981 (the census undertaken in 1991 was boycotted by the Albanians), inferences have been made by the international community through independent polls since 1999, but refugees and internally displaced persons (IDPs) remain a controversial issue. The UN and World Bank estimated that the population was between 1.75 and 2.24 million in 1998 – made more unclear during the 1998-99 conflict. Approximating 800,000 Albanians fled to Macedonia, Albania and Montenegro, with potentially another half million internally displaced. Current information also mentions the presence of Bosniaks, Croats, Roma, Ashkalija, and Egyptians as living in Kosovo.

3.2.2 It is difficult to establish concrete figures on the Serb minority in Kosovo. Serb returns since 1999 have fluctuated, and many have returned to Kosovo from abroad following the war, but have moved around, or returned but then left again.

3.2.3 Much of the difficulties in return have to do with **access to services** such as water and electricity, and also with **community integration**. However, sustainable returns have been documented in the southeast regions of Kosovo (Gjilan, Kamenica and Viti), and to some extent in the central regions as well.

102. In Kosovo, minorities are referred to as ‘communities.’

3.2.4 Access to justice for members of non-majority communities in Kosovo is impeded by tangible barriers **arising from lack of security, physical safety, transportation, language, poverty and court fees. It is also obstructed by delays, uncertainty of the law, lack of confidence in the fairness of the judicial system, limited knowledge of legal rights.** Equal protection of the law for minorities requires more financial dedication and political will than at present. There is also the problem of **lack of legal representation:** most members of minority groups are unable to afford legal representation, and there are insufficient skilled professionals in minority communities, and many lawyers are reluctant to represent minority claimants. Legal rights to effective representation are not being met under the present system.

3.2.5 Ethnic minorities in general faced structural obstacles in conducting political campaign activities. **The profile of the political campaigns and attitudes of voters from non-majority communities were determined by limited financial resources, restricted freedom of movement of small local entities and the inability to mobilize the out of Kosovo electorate.**

3.2.6 The future status of Kosovo will directly influence interethnic relations, and **standards for minorities are a significant factor in status discussions.**

3.3 Legal Status of Minorities

3.3.1 Legal Framework

a. While the United Nations Mission in Kosovo (created through UNSC Resolution 1244) is the supreme governing authority, the Constitutional Framework for Provisional Self-Government in Kosovo was promulgated in 2001. Within the Constitutional Framework the **PISG** is required to ensure that **ethnic, linguistic and religious communities and their members enjoy their constitutionally guaranteed community rights** as well as “fair representation... in employment in public bodies at all levels”; and “be guided in their policy and practice by the need to promote coexistence and support reconciliation between Communities and to create appropriate conditions enabling Communities to preserve, protect and develop their identities.”

b. Regulation 2000/45 stipulated that minority members have the right to access all municipal bodies and civil servants in their own language, and that meetings of Municipal Assemblies be conducted in Albanian and Serb, or in the language of the community dominant in that municipality. A Community Office

must be established in those municipalities where a community that is not in the majority forms a substantial part of the population. **The Community Office is responsible for enhancing the protection of community rights and ensuring equal access for communities to public services at the municipal level.**

c. The Constitutional Framework, Chapter 9.4.1 stipulates that the courts are responsible for the administration of justice in Kosovo in accordance with the **applicable law**, including the European Framework Convention for the Protection of National Minorities, the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). (For information on these conventions → *Section 1 - 1.2, 1.3*)

d. UNMIK and the Council of Europe have instituted an agreement whereby the Council of Europe monitors the international accountability of the local authorities on the rights of national minorities (communities) through the **Framework Convention for the Protection of National Minorities** → *Section 1- 3.2*, and this convention **has been directly applicable to Kosovo since the promulgation of the Constitutional Framework in 2001.**

3.3.2 Implementation

a. The Constitutional Framework requires all the meetings of the Assembly and its committees to be conducted in Albanian and Serbian, and allows other minority groups to address the Assembly and submit documents in their own language, with interpretation provided for members of the Assembly. The current draft Law on Languages stipulates Albanian and Serbian as equal official languages at both central and local levels. Additionally, **at the local level, the use of a threshold system for minority communities provides for extensive protection of linguistic rights** – a community with making up more than 6% of the population will have their language as another official language in the municipality, while communities making up 3% or more of the population can use their language in public. All official documents are printed in both Albanian and Serb, and in other languages if they concern a specific community.

b. The Advisory Office on Communities (AOC) organized a public awareness raising campaign about the importance of the **implementation of international human rights treaties**, and by extension minorities' legal rights. It included a series of information sessions held in five regions of Kosovo with 120 participants

representing minority communities, Municipal Assembly Presidents, and NGOs.

c. One of the **greatest problems of public access to justice remains physical access to the courts.** The situation has been improving, but still varies significantly from region to region. However, several courts have recently opened in minority communities, and a substantial number of judges and prosecutors from minority communities have been hired into the UNMIK judicial system.

d. A recent Council of Europe Advisory Committee Opinion on the implementation of the FCNM stipulated that the convention has not been widely used and is relatively unknown by relevant authorities and the public at large, and goes on further to state that the list which “all persons undertaking public duties or holding public office in Kosovo” are required, in particular, to observe, does not include the FCNM, and therefore does not imply that **adherence to the FCNM is an obligation of the Kosovo authorities.**¹⁰³

e. In general, the Council of Europe has found that although the UN has put **laws** in place to protect minority communities, they **are not reflected in practice**, for example the right to use minority languages, although the CoE. Advisory Committee President Asbjorn Eide has found that speaking a minority language, in particular Serb, means running the risk of incurring harassment or violence.

3.3.3 Institutions for the Legal Protection of Minorities

a. The Committee on Rights and Interests of Communities

is composed of two members from each of Kosovo’s communities elected to the Assembly, and those represented by only one member are represented by that person in the committee. At the request of any member of the Presidency of the Assembly, any proposed law must be submitted to the Committee. The Committee, by a majority vote of its members, decides whether to make recommendations regarding the proposed law to ensure that community rights and interests are adequately addressed.

Committee on Rights and Interests of Communities

Chairman: Randjel Nojkic

e-mail: randjel.nojkic@assembly-kosova.org

103. Opinion on the Implementation of the Framework Convention for the Protection of National Minorities in Kosovo, adopted on 25 November 2005, www.coe.int

b. The Office of Community Affairs (OCA) (within the Ministry for Returns and Community Affairs) is a coordinating body which promotes an integrated and comprehensive approach for the protection of non-majority communities, to include freedom of movement, fair share financing, fair employment, the delivery of essential services to those communities, and monitors the compliance of PISG structures, municipalities in particular, with the stipulations of the Constitutional Framework and UNMIK Regulation 2000/45 On Self-Government of Municipalities, and provides operational guidance to facilitate the gradual process of sustainable integration of communities into the municipality structures and the overall society.

c. Ombudsperson Institution

i. The Ombudsperson Institution is an independent institution which has the role of addressing disputes concerning alleged human rights violations or abuse of authority between the individual/group of individuals/legal entities and the Interim Civil Administration or any emerging central or local institution in Kosovo. He/she accepts complaints, initiates investigations and monitors the policies and laws adopted by the authorities to ensure that they respect human rights standards and the requirements of good governance.

ii. The Constitutional Framework of the PISG states that the **Ombudsperson** shall give particular priority to allegations of especially severe or systematic violations, **allegations founded on discrimination, including discrimination against Communities and their members, and allegations of violations of rights of Communities and their members.**

Ombudsperson

Marek Antoni Nowicki
Str. Agim Ramadani n.n.
Prishtina
Tel: ++ 381 (0)38 501 401,
545 303, fax: 545 302
Email: marek_antoninowicki@hotmail.com

3.4 Political Participation of Minorities

3.4.1 Minority Political Parties (2004)

Civic Initiative of Gora (Gorani)
Civic Initiative Serbia; Serbian List for Kosovo and Metohija (Serb)
Democratic Ashkalija Party of Kosovo (Ashkalija)
New Democratic Initiative of Kosovo (Egyptian)
Party of Democratic Action (Bosniak)
Turkish Democratic Party of Kosovo (Turk)
United Roma Party of Kosovo (Rom)

3.4.2 Political Representation

a. Central Level

i. **Out of 120 seats** in the Assembly, 100 are openly distributed amongst all parties, coalitions, citizens' initiatives, and independent candidates, and **20 seats are reserved for the additional representation of non-Albanian Kosovo Communities.** These are apportioned among seven non-majority communities in accordance with the following formula: Serb – 10; RAE – 4; Bosniak – 3; Turk – 2; Gorani – 1. Minorities are also able to represent their communities within the 100 openly distributed seats.

b. Municipal Level

i. Municipal Assemblies elect the President of the municipality, and in municipalities where **one or more non-majority communities live, an additional Deputy President** shall be appointed by the Municipal Assembly from these communities.

ii. Since 2003, a **system of “fair-share”** has been in use at the municipal level, whereby a certain percentage (depending on the percentage of the minority population in the municipality) of the municipal budget should be spent directly on the minority communities. Practice up to now has shown that all municipalities generally abide by these rules.

3.5 Education

3.5.1 Access

a. The education system for minorities in Kosovo also faces challenges of **teachers** qualified in minority languages, teachers nearing retirement, and physical access to schools - recalling restrictions on the freedom of movement for minorities.

b. The PISG has opened a Faculty for Education for minority communities in Prizren in 2003-2004. They have also organized round table meetings, seminars on new methodologies and lecturing in minority languages, making a particular effort **to assist in the development of minority languages, history, culture and tradition within the school system** as an asset for the fostering of a peaceful multiethnic society. Bosniaks and Turks are integrated into the education system according to new curriculum, which was developed based on a reform launched in 2002.

For gender mainstreaming and equal opportunities in education
EC Toolkit on Mainstreaming Gender Equality in EC Development Cooperation, Section 1, Chapter 1; Section 2 Chapter 1.4.
<http://ec.europa.eu/comm/europeaid/projects/gender/toolkit/content/toolkit.htm>

c. However, **access to education in one's mother tongue continues to be sporadic throughout the province**, and as no central policy directive on this matter has been issued, progress is only made with initiatives at the local level.

3.5.2 Resources

a. **The education system is characterized by parallel structures:** all primary and secondary schools in areas where Serbs are the majority use curriculum, school books and diplomas from the Serbian Ministry of Education.

b. **Paucity of teachers in minority languages** restricts education and training delivery to minority communities.

3.5.3 Further Education

a. Very little is being done to promote minorities' employment and skills. **Initiatives aimed at minority groups are scarce and lack coordination**, and cross-community training initiatives are rare.

3.6 Employment

3.6.1 Access

a. Kosovo's uneven modernization since the 1960s was concentrated in urban populations, leaving the villages languishing effectively decades behind. With the exception of those members of minority communities who live in Pristina, and Serbs living in northern Mitrovica, **minorities currently tend to live in rural areas**, thus adversely affecting their standard of living compared to the majority Albanian community.

b. **Access to employment**, particularly in the private sector, is affected by **minorities' ability to move freely in public, their linguistic knowledge and overcoming direct and indirect discrimination**. Thus, most minorities, in particularly Serbs, have returned to rural environments where they feel safe, and survive on subsistence farming, provided they can have access to farmland.

c. **Workplace democracy** allowing for safe and secure work environments for all employees (and communities) cannot be assured – the level of risk for Serb and Rom communities is particularly high.

3.6.2 *Obstacles/Discrimination*

a. The public sector is the largest employer of minorities, but international institutions report that it currently employs less than 1% of minority community members. This is on top of the increased compliance with guidelines on minority employment in the civil service of the PISG.

b. Minority communities continue to face harassment, intimidation and provocation in varying degrees, and as **Kosovo is characterized by a political elite which continues to operate on a patron-client basis**, parallel structures which perpetuate the segregation between Albanians and Serbs, establishes discrimination against minorities in the public sector, and influences employment discrimination in the private sector (translating into segregated economies).

c. Employment services in Serb enclaves are linked to employment in Serbia, and the parallel systems for vocational guidance are not sustainable. However, as **minority issues are weakly promoted in existing employment and training related policies and projects**, marginalization will continue to aggravate relations between ethnic groups.

3.7 *Health Care*

Municipalities are responsible for providing primary health care, whereas hospitals providing secondary health care are managed at the central level. The parallel healthcare system in Kosovo includes facilities run by the Serbian Ministry of Health (SMH), supervises them, pays salaries, and covers all other related operational costs, with little cooperation or information-sharing between the two structures. After the March 2004 violence, **Kosovo Serbs feel more comfortable using their own (SMH run) health care system** – and also due to the fact most hospitals are located in Albanian areas. Lack of adequate and secure transportation also restricts the Serb community in their health care options.

3.8 *Returns and Security*

3.8.1 *Returns*

a. The continued security challenges have highlighted the need to **prioritize confidence-building and interethnic dialogue** in order to create minimum levels of stability before returns take place. In the absence of such dialogue the security conditions and freedom of movement remain problematic – when security issues remain unresolved, then the return movements have little chance of being sustainable.

b. Minorities, although generally well informed about the existence of reconstruction assistance and the mechanisms through which to obtain it, have encountered difficulties in obtaining it. The actual proportion of houses reconstructed within the minority communities remains far less than that of the majority communities, who normally possess better access to and greater financial resources. **Discrimination remains a reality and persists in access to and apportionment of services**, including reconstruction assistance, exacerbated by restrictions on movement, linguistic ability and education.

3.8.2 Security

a. Conditions do not yet exist for large-scale return of ethnic minorities in the near future, underscoring the continuing need for international protection for members of ethnic communities.

b. While an April 2005 UNHCR published a survey noting the improved security situation for minority communities, but also noted that **the security environment remains highly fragile**, and harassment and assaults are often left unreported due to fear of reprisals.¹⁰⁴

c. Freedom of movement varies widely, both within individual municipalities as well as between different ethnic communities. In some cases there has been an increase in reported security incidents, while in others, both minor and serious incidents go unreported, as the victims do not want to upset the delicate relations they have slowly established with the majority population.

3.9 EAR Priority Areas

3.9.1 Democratic Stabilization

a. Minority Rights

The situation of minority communities differs between municipalities. In general, communities in the eastern part of Kosovo have better conditions as compared to those in the west of Kosovo. In the north, which is largely Serb populated, is again different from other regions. Here, the Albanian community faces problems similar to those of other minority communities elsewhere in Kosovo. The standards process, in pursuit of status talks, has contributed to the improvement of the situation of

.....
104. UNHCR, 'Kosovo: New UNHCR Paper on Protection and Return,' 8 April 2005, <http://www.unhcr.org>, accessed 28 February 2006.

minority communities, as well as the majority Albanian community in the province. However, **there needs to be increased effort on overcoming parallel structures in health, education and employment** in order for minorities, particularly Serbs, to access all of their rights as members of the Kosovar community.

b. Refugee Return and Integration

There needs to be increased support and assistance to PISG structures through building capacity in order to create efficient and functional structures which will take the lead role in the creation of **conditions for the sustainable return and integration of displaced persons within and outside Kosovo**. The Ministry for Returns and Community Affairs¹⁰⁵ has drafted an operational strategy, but it is of poor quality and lacks specific targets, or an operational plan for implementation. Further, it does not address the necessity of depoliticizing the return process – the issue of return should be approached from a human rights aspect rather than be used as a political tool. The UNMIK Office for Communities, Returns and Minorities formed six working groups to address specific issues in the returns process and a new draft strategy and operational guidelines on sustainable return to Kosovo is expected in May 2006.

EC Multi-Annual Indicative Programme
2005-2006 for Kosovo, Chapter 1.1.

<http://www.eur.eu.int/montenegro/main/documents/MIP2005-2006consolidated.pdf>

c. Civil Society

Civil society in Kosovo remains weak, however, many efforts by the international community, in particular Western NGOs, have attempted to support the capacity of the civil sector, through training and financial and technical support. However, due to the presence of the international community, focus on the civil society sector has not been a priority. Thus, **larger civil society organizations have dominated, while smaller organizations have been neglected**. In particular, the organizations of smaller minorities (i.e.: other than Serbian) have lacked the assistance to increase their credibility and capacity. A more targeted approach needs to be made towards the organizations of smaller minorities in order to make the civil society sector ethnically inclusive and to ensure that they are an integral part of the democratization and stabilization process in Kosovo.

105. This strategy was never disseminated on-line, but through government offices, and made available to the ECMI office in Pristina. However, with the elaboration of a new strategy, this document is no longer relevant.

3.9.2 *Good Governance and Institution Building*

a. **Justice and Home Affairs**

Increased awareness needs to be raised amongst law enforcement officials in combating discrimination against minority communities in all areas of their lives (school, work, public), and in ensuring that they are able to have access to all of their rights, including freedom of movement, which impacts on all others. In order for this to be achieved, **capacity building** measures should be undertaken **with police, prosecutors, lawyers and judges, as well as public administration staff, on recognizing direct and indirect discrimination** and having both the political will, and the means, to combat it.

EC Multi-Annual Indicative Programme
2005-2006 for Kosovo,
Chapters 2.1 and 2.3.

[http://www.eur.eu.int/montenegro/main/
documents/MIP2005-2006consolidated.pdf](http://www.eur.eu.int/montenegro/main/documents/MIP2005-2006consolidated.pdf)

b. **Public Administration Reform**

UNMIK Regulation 2000/45 'On the Self-Government of Municipalities in Kosovo'¹⁰⁶ is in many ways vague and an obstacle to the further development and performance of local self-government in Kosovo. The Regulation does not contain the follow-up mechanisms for the protection of local self-government autonomy. **Many functions of the municipalities are ill defined and the relationship between the central and the local government is not clarified, and has the potential to cause future tension between ethnic groups.** The decentralization process needs to account for the future sustainability and performance of the municipal structures.

The idea that the future territorial and administrative organization in Kosovo is to be conducted on an ethnic basis, without studying and analyzing other essential criteria, such as geography and financial sustainability, is unacceptable. This will lead to the separation of territory on an ethnic basis and it does not guarantee a sustainable and operative structure.

3.9.3 *Economic and Social Development*

a. **Access to social services**

In order for issues such as access to employment, public services and welfare assistance to be dealt with, minority communities need to be involved from the planning and policy making stages, as well as in consulting with local administrative bodies and in the implementation phase of development projects. Generally

.....
106. www.unmikonline.org/regulations/2000/reg45-00.htm

speaking, **minority communities will not benefit from any attempt to develop the province economically and socially unless they are consulted** on issues of particular concern to them. Thus, central and local administrative employees need to be advised and trained in the needs of minority communities in the areas of health, welfare, employment, education and their linguistic rights.

b. Economic Development

A **legal infrastructure needs to be established** which will encourage economic development and meet the necessary standards for integration into international economic processes, thus enhancing the standard of living of communities in Kosovo.

c. Economic and Social Planning

Capacity building and modernization at the Statistical Office of Kosovo is in great need of capacity building and modernization in order for it to **carry out a census**, which will be integral to future social and economic planning in the country.

d. Higher Education and Vocational Training

In order to promote higher education and adult education/retraining, **a strategy needs to be designed and implemented with targets and assignment of responsibilities** in order to ensure that all communities have access to such a programme, and to ensure that communities underrepresented in higher education institutions, or in adult retraining facilities, are targeted in such a way as to promote their inclusion and access to employment upon the completion of such programmes.

EC Multi-Annual Indicative Programme
2005-2006 for Kosovo, Chapter 3.3.

[http://www.eur.eu.int/montenegro/main/
documents/MIP2005-2006consolidated.pdf](http://www.eur.eu.int/montenegro/main/documents/MIP2005-2006consolidated.pdf)

e. Investment Climate and Environment

Investment climate

The **promotion of international investment** will impact the economic situation of Kosovo, and thus impact minority communities in the economic and social realms, particularly with i.e., the development of government sponsored programmes which link foreign investors with minority community business consortiums.

EC Multi-Annual Indicative Programme
2005-2006 for Kosovo, Chapter 3.1.

[http://www.eur.eu.int/montenegro/main/
documents/MIP2005-2006consolidated.pdf](http://www.eur.eu.int/montenegro/main/documents/MIP2005-2006consolidated.pdf)

f. Environment

Environmental issues (degradation and protection) need to be addressed in order to ensure that all communities in Kosovo are ensured a high quality of life. It must be ensured that programmes for environmental protection/clean-up are targeted in all areas and do not become a source of political discord between ethnic groups. ➔

EC Multi-Annual Indicative Programme 2005-2006 for Kosovo, Chapter 3.2.2.

Information Sources

Amnesty International - Kosovo Documents, www.amnesty.org/ailib/intcam/kosovo/

European Centre for Minority Issues – ECMI Kosovo, www.ecmikosovo.org

Kosovo Force, www.nato.int/kfor/

Kosovo Helsinki Committee, www.greekhelsinki.gr/english/index-countries/khc-Kosovo.html

Ombudsperson Institution in Kosovo, www.ombudspersonkosovo.org/

OSCE Mission in Kosovo, www.osce.org/kosovo/

United Nations Development Programme, www.ks.undp.org/index.asp

UNMIK PISG Ministry for Returns and Community Affairs, ‘Strategic Framework on Communities and Returns,’ [www.db.idpproject.org/Sites/IdpProjectDb/idpSurvey.nsf/6174239930650A41C125707C003DBFE5/\\$file/Strategic+framework+Kosovo+0507.pdf](http://www.db.idpproject.org/Sites/IdpProjectDb/idpSurvey.nsf/6174239930650A41C125707C003DBFE5/$file/Strategic+framework+Kosovo+0507.pdf)

UNMIK United Nations Mission in Kosovo, www.unmikonline.org/

UMCOR Kosovo Humanitarian Agency of the United Methodist Church, gbgm-umc.org/umcor/ngo/balkans/kosovo/

USAID Mission in Kosovo, www.usaid.gov/missions/kosovo/

World Bank for Kosovo, www.worldbank.org/html/extdr/kosovo/

PISG Ministries

Ministry of Public Services, www.ks-gov.net/mshp/

Ministry of Labour and Social Welfare, www.ks-gov.net/mpms/english

Ministry of Education, Science and Technology, <http://www.ks-gov.net/masht/> (website under reconstruction)

Ministry of Trade and Industry, www.mti-ks.org/

Ministry of Local Self-Government, (website in development)

Minister’s Office: Ph. +381 38 211 906

Ministry for Returns and Community Affairs, (website in development)

Minister’s Office: Ph. +381 38 243 786

4. Former Yugoslav Republic of Macedonia - Minority Needs Analysis

4.1 Statistics

Ethnic Composition (%)								
	Macedonian	Albanian	Turk	Roma	Serb	Bosniak	Vlach	Other
1994	66.6	22.7	4.0	2.2	2.1	-	0.4	2.0
2002	64.18	25.17	3.85	2.66	1.78	0.84	0.48	1.04

Political Representation (of minorities at the central level)									
	Albanian				Roma		Turk	Bosniak	Serb
	PPD	BDI	PDSH	PPD/ PDP	SRM	OPRM	DPTM	DLBM	DPSM
1998	11		10		1				
2002	2	16	7	1		1	1	1	1

School Enrollment by Ethnicity (2000-2001) (%)							
	Macedonian	Albanian	Turk	Roma	Vlach	Serb	Other
Primary	57.7	30.9	4.2	3.2	0.2	1.1	2.7
Secondary	76.9	17.3	1.8	0.5	0.3	1.3	1.8

Language of Instruction in Schools (2002-2003) (%)				
	Macedonian	Albanian	Turkish	Serbian
Primary	65.0	32.1	0.25	0.02
Secondary	80.0	18.8	<1.0	n/a

Employment (2000) (%)								
	Total	Mace.	Albanian	Turk	Roma	Vlach	Serbian	Other
Workforce	100.0	78.8	13.0	2.5	1.6	0.3	1.4	2.3
Employed	67.7	83.5	9.8	2.3	1.0	0.3	1.3	2.1
Unemployed	32.3	68.8	19.9	3.0	3.7	0.3	1.6	2.6

Employment in Public Administration by Ethnicity (%)						
	Macedonian	Albanian	Turk	Roma	Serbian	Other
2001	92.1	3.63	0.36	0.4	1.94	1.51
2003	83.89	11.4	0.56	0.73	1.89	1.5

4.2 Overview

4.2.1 Political life in the Former Yugoslav Republic of Macedonia is dominated by ethnic Macedonians and Albanians, which has adverse effects on other communities,¹⁰⁷ particularly in the areas of education, language, political representation and economic well being.

4.2.2 Communities in the Former Yugoslav Republic of Macedonia continue to suffer from **indirect discrimination**, in particular due to linguistic barriers, poor education facilities and lack of instruction in their own language and culture, which all in turn lead to reduced ability to gain steady employment that provides them with the means to support themselves and their families.

4.2.3 Improved access to education and educational facilities are one of the key challenges that communities, particularly non-dominant communities, need to overcome. Other factors which directly affect the marginalization of non-dominant communities: weak law enforcement, stagnant economy, high unemployment and poverty.

4.2.4 The Ohrid Framework Agreement has initially been a cause for friction between communities, particularly in 2004 when plans to implement the decentralization process, in particular the redistricting phase, were made public. Redistricting drastically affected the ethnic composition of some districts, turning minorities into majorities, and vice versa.

4.2.5 Since 2001, there has been an 80% **increase in the employment of minority communities**; Albanians have obtained a level of representation in the parliament close to their actual share of the population; and a constitutional amendment was adopted that requires a ‘double majority’ for laws related to ethnic minorities.

4.2.6 The decentralization process is a first step towards ensuring that non-dominant communities are involved in the processes which affect their day-to-day lives, but this process has also been detrimental. The necessary changes of municipal borders have affected the populations of each municipality and directly affected majority-minority ratios, and thus in many cases have had adverse effects on interethnic relations.

EC Country Strategy Paper 2002 -2006 for the former Yugoslav Republic of Macedonia, Chapter 1.

<http://www.eur.eu.int/macedonia/main/fy-rom-a1f2.htm>

107. Minorities in the Former Yugoslav Republic of Macedonia are referred to as ‘communities.’

4.2.7 The former Yugoslav Republic of Macedonia has applied to begin accession talks with the EU, and has received candidate status in December 2005. Accession talks will improve the status of communities, as the country will be obliged to comply with all European instruments for the protection of minority rights and culture.

4.3 *Legal Status of Minorities*

4.3.1 *Legal Framework*

- a. Constitution: Article 9 of the Constitution states that **all citizens are equal in their freedoms and rights**, regardless of (including) race, national origin, political and religious beliefs, and are equal before the law. The document goes on to specifically address the protection of communities in Article 48, mentioning: ‘Members of nationalities have a right to freely express, foster and develop their identity and national attributes. The Republic guarantees the protection of the ethnic, cultural, linguistic and religious identity of the nationalities.’
- b. The Ohrid Framework Agreement further elaborates the protection of community rights, in particular in articles 4.2 and 5.2, which ensure **equal representation in government and administration**, and regulate the use of language, education provisions, cultural protection and representation within municipalities.
- c. The Former Yugoslav Republic of Macedonia signed the **FCNM** on 25 July 1996, ratified it on 10 April 1997, and it entered into force on 1 February 1998. It has signed the **European Charter for Regional and Minority Languages** but not ratified yet. A bilateral agreement on protection of national minorities has been concluded with Serbia and Montenegro.
- d. The 2002 **Law on Local Self-Government** provides for the possibility of citizen participation in the decision-making process at the local level for issues of their concern, but this aspect of the law – public consultation - has not yet been implemented.
- e. A Law on Languages has been proposed to parliament, but not yet passed due to the Social Democratic Party, which fears that the adoption of the **law on the use of the Albanian language** will bring about their defeat in the next parliamentary elections. However, the absence of a Law on Languages is in contradiction to the Ohrid Framework Agreement, and such a law could simplyfy the use of language in public, which is currently determined by nine separate laws (for education, in local government offices, etc.¹⁰⁸

108. ‘Law on Languages a Key Issue in Macedonia,’ February 2006, <http://www.ciemen.org/mercator/notidetail.cfm?IDA=871&lg=gb>

4.3.2 Implementation

a. Implementation of the Ohrid Agreement has been successful, although uneven, to date. Some aspects have faced opposition, such as the adoption of the Territorial Organization Act in August 2004. However, it has since been implemented. The act decentralizes the country by giving more power to local government, particularly in the fields of culture, education, health, urban planning and local policy. It also allows for minority languages to be made a second official language in a municipality where that minority represents at least 20% of the population.

4.3.3 Institutions for the Legal Protection of Minorities

a. Article 78 of the Constitution established a Committee for Inter-Community Relations, consisting of seven members each from the ranks of the Macedonians and Albanians within the Assembly, and five members from among the Turks, Vlachs, Roma and two other communities.

The Committee is intended to consider issues of inter-community relations in the Republic and makes appraisals and proposals for their solution and the Assembly is obliged to take into consideration the appraisals and proposals of the Committee and to make decisions regarding them. However, as with the Council for Inter-Ethnic relations which preceded the Ohrid Agreement, the Committee is not an active institution and as such infringes on the rights of minority communities to participate in the political process.¹⁰⁹

Committee for Inter-Community Relations

Address:

11 Oktomvri bb,

1000 Skopje, Republic of Macedonia

E-mail: sobranie@sobranie.mk

b. The Law on Ombudsman (2003) significantly enhanced the position and the jurisdictions of the Macedonian Ombudsman. The Ombudsman undertakes actions and measures for protection of the principle of non-discrimination and adequate and equitable representation of community members in the state administration bodies, the local self-government units and the public institutions and agencies.

Ombudsman Institution

Branko Naumovski

Address: Dimitrie Chupovski Street 2

1000 Skopje

Phone: 02 3129 /335 or /359 or /327

E-mail: ombuds1@mt.net.mk

109. More information available at: <http://www.sobranie.mk/en/default.asp?vidi=komisii&MandatID=5&NazivA=Committee+on+Relations+Between+Communities>

4.4 Political Participation of Minorities

4.4.1 Minority Political Parties (2002)

Democratic Union for Integration; National Democratic Party; Democratic Party of Albanians; Democratic Prosperity Party (Albanian)

Democratic Party of Serbs (Serbian)

Democratic League of Bosniaks (Bosniak)

Democratic Party of Turks (Turkish)

Democratic Union of Vlachs (Vlach)

United Party of Romas in Macedonia (Roma)

4.4.2 Political Representation

a. Representation at central and municipal levels is determined by the decentralization aspect of the Ohrid Agreement, and the numerous problems and resulting difficulties surrounding it. The number of administrative districts will decrease from 123 to 76 by 2008, giving more power to local governments and increasing the representation of ethnic Albanians in local government structures.

b. The new districts will be created by joining rural Albanian areas with majority Macedonian districts, thus increasing the number of districts where the Albanian population will be **more than 20%** - satisfying the **threshold component** required under the constitution in order for minorities to access certain rights, such as use of language in public institutions and education and the display of signs in public.

c. The selection of **community representatives in certain bodies and state structures responsible for creating state policy** (i.e.: culture, education) is normally done through arrangements between parties, lacking transparency and thus neglecting to cultivate wider support for representatives from the various communities.

4.4.3 Decentralization

a. The decentralization process neglects the needs of **smaller communities** – the new districts, in combination with the threshold requirement, creates new tensions in the state due to the wish of communities to use the decentralization process to achieve threshold ‘status’ in order to realize their rights, in contrast to the ethnic Macedonian population who will thus relinquish some power to other communities.

b. This neglect of other communities in the political process restrains them from actively participating in creating state policies, and affects the **low percentage of ethnicities represented in legislative, executive and judicial branches of the government.**

4.4.4 Citizenship

a. A major problem for communities has been obtaining Macedonian citizenship. **Lack of citizenship** means that they are not represented in Parliament, cannot run for political office, and cannot access the same rights as other members of minority communities in the Former Yugoslav Republic of Macedonia.

4.5 Education

4.5.1 Access

a. The education system has long been one of the major factors for the de facto segregation between ethnic Albanians and ethnic Macedonians. Both communities insist that their children be taught in their mother tongue, resist learning each other's language, and persist in the mono-cultural nature of education.

Ombudsman Institution

Branko Naumovski

Address: Dimitrie Chupovski Street 2
1000 Skopje

Phone: 02 3129 /335 or /359 or /327

E-mail: ombuds1@mt.net.mk

b. **Teaching is delivered in four languages only:** Macedonian, Albanian, Serbian and Turkish. The Romani and Vlach languages, as well as the languages of a number of other communities, such as Ashkalija, Egyptian, and Croatian, are entirely neglected, or have very little use (only two primary schools, located in Skopje, teach in the Romani language).

c. There is **insufficient provision for students to learn in their mother tongues.** Regardless of the required 20% threshold to establish classes in minority languages, the textbooks and level of qualification of the teachers is either outdated or very low.

4.5.2 Resources

a. The state has not yet undertaken the required efforts to improve the **infrastructure in the schools**, including equipment, supplies and transportation

of students. The worst affected are the rural areas, and, by extension, the minority communities.

b. Students from minority communities are regularly placed in classes already over the capacity limit for both the **student: teacher ratio**, and in terms of space. They also suffer from lack of heating, water, and an inability to be introduced to basic educational requirements such as laboratory work.

4.5.3 Further Education

a. Other ethnic communities are unable to provide quality education to students due to isolation, and as a result, **many members of ethnic minorities do not continue their education past primary school.**

4.6 Employment

4.6.1 Access

a. In the first half of 2005, unemployment was 38% of the workforce, up from 32.3% in 2000.

b. Most **minority communities live in rural areas**, and most employment opportunities are concentrated in towns and cities, therefore minorities are **geographically excluded** from a large majority of potential jobs in industry and services.

c. There is a **lack of** courses and training for **vocational re-qualification or qualification.**

d. This **low participation in the economic sphere** of the country has ramifications maintaining even the minimal standard of living. Poor living conditions, where there is a lack of infrastructure (no water, sewage, paved roads or telecommunications), and no financial means precludes certain communities from securing a higher or even basic standard of living.

EC Country Strategy Paper 2002 -2006 for the Former Yugoslav Republic of Macedonia, Chapter 3.2.2.

<http://www.eur.eu.int/macedonia/main/fyrom-a1f2.htm>

4.6.2 Obstacles/Discrimination

a. While **Roma** typically reside in urban areas, they are excluded from employment due to a **lack of education.** In all, by 2004 estimates, 30.2% of the Rom population lives below the poverty line.

b. The government has made overtures to address the **unemployment and poverty situations** within the country (for both majority and minority communities). At times, they have worked in cooperation with the World Bank to prepare programmes to fight poverty, but planning has excluded participation by minority communities, thus restricting programmes to address primarily the difficulties faced by ethnic Macedonians, whose needs are different from those of minority communities.

4.7 EAR Priority Areas

4.7.1 Democratic Stabilization

a. Community Rights

There are a number of issues that continue to plague interethnic relations, and thus democratic stabilization in the former Yugoslav Republic of Macedonia. Of particular concern are the 1,900 **internally displaced persons** left from the conflict in

2001, the **marginalization of smaller communities**, and opposition to the decentralization process. Due to this, there continues to be segmentation in society, particularly between Macedonians and Albanians. **Sustainable interethnic communications strategies** need to be established, and the government needs to review the reforms it has implemented over the past four years to assess acceptance by the population, and ensure that segmentation is reversed.

EC Country Strategy Paper 2002 -2006 for the former Yugoslav Republic of Macedonia, Chapter 5.2.1.

<http://www.ear.eu.int/macedonia/main/fyrom-a1f2.htm>

4.7.2 Good governance and Institution Building

a. Judicial Reform

Corruption continues to be a problem, and more needs to be done to reinforce the population's trust in the legal system. Corruption impacts the economic situation of the country through dissuading foreign investment, allows for the **persistence**

of discrimination in employment and thus affects the unemployment rate, and promotes the black market, which adversely affects the state's revenue. While

EC Country Strategy Paper 2002 -2006 for the former Yugoslav Republic of Macedonia, Chapter 5.2.4.1.

<http://www.ear.eu.int/macedonia/main/fyrom-a1f2.htm>

major reforms with regard to the judiciary have been implemented, sustained effort needs to be made to combat corruption.

Other legislative reforms should be undertaken, particularly regarding omissions in the laws on procedure (procedural rights); the Law on Executive Procedures needs to be amended to allow for faster implementation of the courts' verdicts; ECHR principles, which have been ratified by the Former Yugoslav Republic of Macedonia, need to be incorporated in domestic legislation, first in the Constitution and then in the laws on procedure; and the **jurisdiction of the Constitutional Court** should be expanded to cover all freedoms and rights guaranteed in the Constitution, not just those specified in Article 110.

b. Police Reform

Police abuse and violations of defendants' rights, particularly for the Rom community, continues to be a serious problem. Training on community issues and rights needs to be mainstreamed into general police training, and an accountability system needs to be in place to ensure that all communities, not only minorities, have access to a fair and efficient police force. While training programs offered by international institutions (OSCE, Proxima, etc.) have been useful, the Ministry of Interior needs to institutionalize the trainings – to ensure that they are long-term and that priority trainings are given to those police officers who are on patrol in the former conflict regions, where the greatest potential for violence and abuse exists.

4.7.3 *Public Administrative Reform*

a. Administrative Capacity

While the implementation of the Ohrid Agreement (2001) has made strides in increasing the representation of communities in public life, it has not ensured that public and social services are delivered in a non-discriminatory manner. Minority communities, particularly those in rural areas, as well as Roma, continually **lack access to facilities such as electricity, running water, sewage and proper roads** for transportation. Secondly, education for communities, while mandated by law, is of a lower standard than for the majority population. Proper infrastructure, such as electricity, school books, stationary and proximity of schools, continue to plague students of minority communities. A targeted plan needs to be implemented to overhaul the delivery of these services, and to ensure that bureaucratic structures are accessible for all groups in order to meet their day-to-day needs.

b. Decentralization

The **decentralization process** is one of the integral aspects of the Ohrid Agreement, and its implementation has been viewed as key in ensuring stable

relations between ethnic Macedonians and Albanians, and in increasing the representation of Albanians in public life to a percentage comparable to that of their overall percentage of the general population. However, given the nature of the Ohrid Agreement to stabilization of Albanian-Macedonian relations, **smaller community groups have been left behind**. The necessity of having 20% of the population of a municipality in order to gain language status (as opposed to use) in public administration and education means that other communities do not have the opportunity to access such rights. Further, most focus has been on the status of the Albanian community, and other groups have not benefited to the extent which Albanians have, particularly in employment, education and representation in public administrative structures. Thus, while interethnic relations remain stable, it is important **to ensure that smaller communities are targeted for inclusion** in the Ohrid and decentralization processes in order to maintain and promote peaceful co-existence in the country.

4.7.4 *Economic and Social Development*

a. Education

The educational system has the obligation to recognize and instruct teachers and students about the diverse communities that exist in the Former Yugoslav Republic of Macedonia. Thus far, the education system has failed to do this due to its **ethnocentric and traditional approach**. Linguistic/ethnic parallelism can be overcome by learning the languages of others, by the introduction of alternative bi-lingual education and by joint extra-curricular activities. Ethnocentrism can be addressed by the **introduction of new contents in history and culture**, by removing ethnic stereotypes and prejudice from instruction and by presenting the principle of multiculturalism in a positive light. Finally, the traditional approach needs to be supplanted by a more interactive approach, which encourages students to develop their capacity to engage in critical and creative thinking.

Strengthening teacher-training institutions goes hand in hand with the recommendation on multiculturalism. Reform of the curricula during pre-service training and supplementary instruction (in courses on democracy and multicultural values, for example) during in-service training would improve the preparedness and the ability of teachers to present lessons in an open manner free from prejudice and stereotypes.

The **poor level of infrastructure and equipment** hampers the ability of teachers to provide quality instruction and makes it more difficult for students to learn. The Ministry needs to be in a better position to compare schools and thereby ensure a standard quality of instruction and equitable conditions.

b. Employment

A more concerted, systematic and comprehensive approach to support small and medium enterprises is essential to facilitate entrepreneurship. This would create job opportunities for many people, although special consideration needs to be given to those who are marginalized in society. Secondly, efforts to **establish business training and education programs** need to be pursued more rigorously. Members of all communities would benefit from more updated curricula and from programmes offered by international schools.

c. Investment and trade

Increased foreign investment and increased trade will have positive impacts on the economy, which can translate into **new employment opportunities for all communities**. Reinvigorating the economy through investment and trade will raise the standard of living and positively impact the status of minorities.

d. Environment

Environmental degradation and protection impact both the economy and the health of all residents. Given that environmental issues and regulations tend to be a low priority in regions with a lower standard of living, these issues directly impact minority communities, as they tend to have lower standards of living compared to majority groups.

Further Reading

Council of Europe: 'Shadow Report on the Situation of National Minorities in the Republic of Macedonia,' Working Group for Minority Issues, March 2004, www.minelres.lv/reports/Macedonia_NGO2.pdf

CIA World Fact Book: 'Macedonia,' 30 August 2005, www.cia.gov

Elections in Macedonia, <http://www.electionworld.org/macedonia.htm>

Human Rights Watch: 'Macedonia: World Report 2005,' www.hrw.org/english/docs/2005/01/13/macedo9875_txt.htm

Minority Rights Group. 'Macedonia: Micro-credit, poverty and returning minorities,' www.minorityrights.org/admin/Download/pdf/MacedoniaMicro.pdf

Parliamentary Assembly of the Council of Europe: Resolution 1440 (2005), "Recent political developments in the Former Yugoslav Republic of Macedonia in the context of regional stability", <http://assembly.coe.int/Documents/AdoptedText/ta05/ERES1440.htm>

For expert information on specific sectors, please see ECMI Policy Dialogue Initiative at <http://www.ecmimacedonia.org/>.

5. Cumulative List of Tools - Section 2

5.1 International Legislation:

- European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)
➔ *Section 1 - 1.2.1; Section 2 - 1.3.1, 3.3.1*
- International Covenant on Economic, Social and Cultural Rights
➔ *Section 2 - 1.3.1*
- European Charter for Regional and Minority Languages (ECRML)
➔ *Section 1 - 1.3.1; Section 2 - 1.3.1*
- Framework Convention for the Protection of National Minorities (FCNM)
➔ *Section 1 - 1.3.2; Section 2 - 1.3.1, 3.3.1, 4.3.1*
- International Covenant on Civil and Political Rights (ICCPR)
➔ *Section 1 - 1.2.3; Section 2 - 1.3.1, 3.3.1, 4.3.1*
- International Convention on the Elimination of all Forms of Racial Discrimination (ICERD)
➔ *Section 1 - 1.2.2; Section 2 - 1.3.1, 3.3.1*

5.2 National Legislation

5.3 State Union of Serbia and Montenegro:

- Constitutional Charter of the State Union (State Union law on minorities)
- Charter on Human and Minority Rights and Civil Liberties
- State Union Ministry for Human and Minority Rights
➔ *Section 2 - 1.3.1*

5.3.1 Serbia:

- Constitution of Serbia (Law on the Protection of the Rights and Freedoms of National Minorities; Labor Act; Law on Public Information's Prohibition of Hate Speech) Council for National Minorities
➔ *Section 2 - 1.3.1*
- Committee for Interethnic Relations
- Council for Interethnic Relations
- Ombudsperson Institution
➔ *Section 2 - 1.3.2*
- Coordination Centre for Southern Serbia
➔ *Section 2 - 1.4.2*

5.3.2 Montenegro:

- Constitution of Montenegro (Right to protect the group identity; Use of language in schools and access to information; Use of symbols; Right to assembly and form organizations and receive support from kin state; Syllabi and textbooks in culture and history of minority; Use of Language in State institutions; representation in civil service, state institutions and local self-government – Federal Law on National Minorities (not implemented))

➔ *Section 2 - 2.3.1, 2.3.2*

- Ministry for the Protection of the Rights of National and Ethnic Groups
- Republican Council for Protection of Rights of Members of National and Ethnic Groups
- Parliament: Committee for Interethnic Relations
- Centre for the Preservation and Enhancement of Cultures of National and Minority Groups
- Ombudsperson Institution

➔ *Section 2 - 2.3.3*

5.4 UN-administered Kosovo:

- Constitutional Framework for Provisional Self-Government
- UNMIK Regulations (Regulation 2000/45 right of minority members to access all municipal bodies and civil servants in their own language, and that meetings of Municipal Assemblies be conducted in Albanian and Serb, or in the language of the community dominant in that municipality)

- Community Office

➔ *Section 2 - 3.3*

- Advisory Office on Communities (AOC)
- Committee on Rights and Interests of Communities
- Ombudsperson Institution

➔ *Section 2 - 3.3.3*

5.5 Former Yugoslav Republic of Macedonia:

- Ohrid Framework Agreement

➔ *Section 2 - 4.2.4, 4.3.2*

- Constitution (Article 9: all citizens equal in their freedoms and rights, regardless of (including) race, national origin, political and religious beliefs; Article 48: Right of members of nationalities to freely express, foster and develop their identity and

national attributes. The Republic guarantees the protection of the ethnic, cultural, linguistic and religious identity of the nationalities; Law on Local Self-Government; Law on the use of the Albanian Language)

➔ *Section 2 - 4.3.1*

- Committee for Inter-Community Relations
- Ombudsman Institution

➔ *Section 2 - 4.3.3*

MINORITY ISSUES MAINSTREAMING



MINORITY ISSUES IN THE PROJECT CYCLE

INTRODUCTION

SECTION ONE

SECTION TWO

SECTION THREE

GLOSSARY

Key Definitions:

- Budgeting
- Democratic development
- Development analysis
- Development assistance programmes
- Equal opportunities
- External problems
- External project evaluation
- Focus group
- Internal problems
- Internal project evaluation
- Mapping
- Minority analysis
- Minority indicators
- Minority mainstreaming
- Option choices
- Performance indicators
- Problem analysis
- Process indicators
- Project cycle
- Project fiche
- Rights based analysis
- Results indicators
- Special measures
- Stakeholder analysis
- Terms of reference

1. Introduction: The Importance of Including Minority Issues in Development and Rehabilitation Programmes

Many newly established states in South East Europe make serious efforts to **fulfill formal expectations of human rights** commitments, yet much of it targets the international community rather than their own citizens. The international commitments have a tendency to remain at **declarative levels**, while national commitments, being most critical for the beneficiaries, often remain subject to vague implementation strategies. This is partly due to the retention of previous regimes' constitutional provisions, while minority rights are often regulated outside of these very general references in the constitutions ➔ *Section 2 - 1.3.1, 2.3.1, 3.3, 4.3.1*. In particular, strong nation-building processes of the majority population and minority grievances are underpinning elements in the post-conflict transformation. Therefore, in order to mobilize states to make relevant efforts, the international community establishes various incentives such as **general development assistance programmes**; incentives for specifically identified geographic areas and sectors but also **monitoring and reporting instruments** ➔ *Section 1 - 1.8, 1.3.2/b, 1.5.2, 1.1.7*.

The overall rehabilitation of the countries based on inclusion of all beneficiaries in projects and programmes is a key to the successful delivery of results but also an efficient assistance to a sustainable and participatory development. As most of these states are multiethnic, and development should be equally distributed among entire population, minority issues should be at the core of the attention of EAR reconstruction programmes. Also, the EAR engagement aims at promoting democratic stabilization in the respective countries ➔ *Section 2 - 2.7.1*.

Minority inclusion and minority rights, in terms of minority protection as part of general human rights rationale, should be enhanced, e.g., through **EU association process**. This process is of great importance in the relationship between the region and the EU ➔ *Section 1 - 1.5.6* as well as more EAR related EC requests – CARDS, CSPs, MIPs ➔ *Section 1 - 1.5, 1.5.3, 1.6.4*. As demonstrated by the example of the minority related requirements in recent enlargement process, minority inclusion and mainstreaming is a critical issue for the EC evaluation of the accession readiness ➔ *Section 1 - 3.2, 3.2.1/b*.

1.0 Overview

The purpose of **presenting minority issues mainstreaming through projects** into EAR activities being both operational and structural, is to demonstrate how

the EAR assistance can support and influence inclusion of minority governance at different levels of decision-making processes. EAR activities have influence on the integrity of the states, their credibility towards their own citizens and the international community in promoting **democratic development**. Democratic development is an overall commitment that states and governments make not only as a political and legal commitment for ideological purposes, but also as concrete expectations of rewards and benefits that may be provided. ➔ *Section 1 - 1.8*. This latter incentive is very relevant as many states look towards those options as opportunities for access to funds, technologies, trade, etc.

Democratic development, meaning equal opportunities and inclusion, is also an important instrument for **mobilization of internal resources and capacity building opportunities for poverty reduction**. This is a decidedly acceptable and promoted approach, yet states and governments often perceive democracy as an expensive solution and some try to bargain for double standards. Therefore, it is important to include minority analysis in development frames to demonstrate that minorities are an inherent resource if investments are rightly made – both in political and economic terms.

1.1 Minority and Gender Mainstreaming the Project Approach - a Natural Synergy

Mainstreaming methodology for both EAR cross-cutting issues is very similar, although engendering the project cycle is more obvious by the substance (women constitute a half of all societies and belong to minority groups). Though the same criteria apply to project phases for both, creating synergy based on the same canvass. Many aspects of gender mainstreaming will be easily recognized and applied in minority mainstreaming project stages and cross-referenced respectively.

1.2 Including Minority Issues into EAR Programming – a Rationale

Although EAR programmes principally target sectors important and relevant to all beneficiaries, a conscious **inclusion of cross-cutting issues such as gender/minorities into the programming cycle provides for opportunities that otherwise could have been missed.** The risk for the project to miss its objective, its possibilities not to be sustainable or to backlash on minority-majority relations is a real threat to the efforts of reconstruction and rehabilitation, particularly in a post-conflict context.

Although most EAR projects will not target minorities directly, they should consider minority aspects. Therefore, minority mainstreaming does **not necessarily mean that minority concerns must be explicitly included in all phases of a project cycle.** What is important is to take them **into consideration** and decide when and why they should or should not be included in the programming, project planning and its documents.

Often, the phrase “integration of minorities” is used in programming language, but it gives the wrong connotation, as **minorities are an integral element of SEE societies.** Constituting on average 15-25% of the total population, a critical issue at stake here is their “inclusion” into mainstream societies, yet leaving space and providing for enjoyment of their distinct features.

Two approaches can be used in the methodology of minority mainstreaming analysis: **development analysis** - allowing for identification of the **importance of minorities for the development** process (inclusion/exclusion has economic and social consequences); **rights analysis** - allowing for enhancing of **promotion and protection of specific minority rights in the assistance programmes (sector development).**

1.3 Development Analysis – Priority Needs and Priority Sectors

This analysis applies in principle to all vulnerable groups that are politically, economically and socially disadvantaged. Used for gender analysis or minority analysis, it shows where particular needs for interventions are → *EC Gender Toolkit, Section 1,2.1.1; Introduction 1.2.*

In the development discussion, a perception continues to persist, that what is beneficial for the whole population is also beneficial for minority groups, in the

name of democracy and equal distribution. Yet special needs or inherent rights call for additional or other solutions (→ *diversity in development calls for diversity in policies*).¹¹⁰

Thinking of the impact of programming on majority-minority groups, a “DO NO HARM” approach of mainstreaming should be considered → *Section 2*. For instance, if a minority population does not wish to be brought to the forefront, they should not be specifically targeted. Minorities use various strategies to achieve their goals and it should be respected, unless those strategies are adopted due to undemocratic or discriminatory practices → *footnote¹¹¹, Section 2 - 3.3, 2.7.4*.

When cross-checking priority needs in development in general and priority sectors in the EAR rehabilitation programmes, four areas critical to minority inclusion call for particular attention → *Section 1 - 1.5.1*:

- Education – development of skills, and communication
- Access to employment (especially on local level) – equal opportunities
- Health & social services – social inclusion
- Good governance and rule of law, incl. minority political participation and access to justice

The best way of achieving maximum synergy and outputs of the EAR programmes would be to combine elements of minority critical sectors with sectors impacting minorities, such as:

- Environment – particular geographic areas and their use by minorities, peripheral regions and employment, education → *Section 2 - 2.7.4*
- Energy – equal access and distribution, economic development
- Infrastructure – communication, economic development, education, good governance → *Section 2 - 4.4.3*

By promoting/not promoting equal opportunities as well as ensuring enjoyment of the rights provided through international and national legal frameworks, the risk for minorities is that they only have two possibilities:

- 1) become a resource and contribute to improved standards of living or
- 2) fall through and only marginally be involved in the development processes

110. Ethnic Minority Development in Vietnam – a socio-economic perspective, vol 1. 2002, WPS 2836 ; www.worldbank.org

1.4 Rights-based Analysis – Minority Rights in Sector Development

While offering development opportunities, **specific needs and rights of minorities should be included in the development projections when necessary.** Out of a **state's human rights commitments (or lack thereof), in reference to minorities and existing gaps** ➔ *Section 1 and Section 2*, this type of analysis provides information about needs and specific aspects of sector development.

Those existing gaps can be real ones (a gap between declarations, formal legal provisions but no normative acts for implementation at various levels of administration) or sometimes perceived by minorities, due to lack of transparency or proper information. Here such a **gap analysis of rights is very helpful in order to make relevant programming decisions, funds allocations, donor cooperation and possibly even a recommendation for political action** to improve the situation. In addition, the rights analysis may sensitize programming to specifically target minorities or to raise awareness about programme impact on minorities and majority-minority relations.

In order to **ensure proper intervention**, both analyses conducted at different levels may disclose relations that will call for additional efforts, in terms of specific actions or additional funding, to be included in the project or political pressure:

- **MACRO Level:** Reflection of EC development and cooperation standards, EAR standards; international commitments of the state; national legal and political commitments, other donor standards in co-ordination approaches ➔ *Section 1, 4.1-4.3; Section 2, 5.1. The steps envisaged are: 1) to cross-check relevant international and national provisions; 2) to discuss with responsible government agencies; 3) to discuss with other donors; 4) to discuss with beneficiaries.*
- **MESO Level:** Public services and their equal delivery; equal economic opportunities (employment, business); reflection of public administration at all levels of the composition of the society; institutional availability and reflection; provision of resources ➔ *Section 2, country analyses. The steps envisaged are: 1) to check with executive bodies for capacities, instructions delivered; 2) to check with recipients (eg. local administration); 3) to check with beneficiaries (local groups).*
- **MICRO Level:** Equal access to public services in geographic minority areas/minority critical areas; use of provided resources (incl. non-material resources such as information); cultural reflection of the composition of society;

occupational traditions and segregation; educational traditions and segregation; community mobilization; civil society capacity and co-operation with authorities on decisions related to resource access and their distribution → *Section 1 - 1.3.2/b, 1.5.2* country reports. **The steps envisaged are: 1)to check availability of designated/provided resources; 2) to check relevant information availability for local recipients and beneficiaries; 3) to check equal/non-equal access to services; 4) to recognize specific cultural aspects of beneficiary groups.**

1.5 Developing Minority Indicators – Measuring Minority Relevance

Another aspect of measuring minority mainstreaming relevance and potential achievement of goals and aims in the project cycle is development of **appropriate minority indicators**. So far, **no standardised common minority indicators have been developed** by the international community, rather the indicators are developed for particular purposes of specific programming.¹¹¹ In the table below, examples of indicators impacting minority mainstreaming are presented as **1. directly minority relevant** and **2. indirectly minority relevant**:

Table 1. Common minority indicators examples

Indicators	Sector 1. Education	Sector 1. Employment	Sector 2: Energy	Sector 2: Environment.
Minority participation	X	X	If disadvantaged	If using resources
Community climate for diversity	X	X	Not relevant	Using resources in different ways

When establishing indicators for a project, the following elements need to be taken into consideration:

1. What we do want to know?
2. What information can tell us this?
3. What are the best pieces of information (**key indicators**) that will give the most accurate information?
4. Is the required information accessible?

Establishing good indicators will reduce the amount of information to be collected!

111. “Social Challenges in South Eastern Europe” , CoE Bank, June 2005, p. 26 and Annex 2, at: www.coebank.org

In a politically sensitive environment key areas for the development of minority indicators are:

- Majority-minority relations
- Inter-minority relations
- Minority inclusion
- Population balances
- Statistics – data disaggregated by minorities. If there are no reliable data, one can combine information available into **an indicative minority data profile based on available information as a trend.**

■ These can be combined with key dimensions in minority mainstreaming and relevance, such as:

- Impact – how the impact on minority communities will be reflected from projects which do not target minorities
- Effectiveness - are projects effective without specific measures for minority communities
- Special measures – need for additional inputs to achieve specific targets

■ Four basic indicators will facilitate project design and delivery:

- Results indicators – effect and impact of the project (e.g., increased schooling among Roma children)
- Performance indicators - to measure project delivery (e.g., number of Roma children educated in the project)
- Process indicators - what is needed to accomplish performance indicators (e.g., consumption of resources – teachers and materials needed to provide schooling for Roma children)
- Operational statistical/quantitative data and qualitative data – what data is required to measure indicators (e.g., statistics on enrolment rate of Roma children and children from general population before and after project delivery)

1.5.1 Case study for Developing Minority Indicators

In the former Yugoslav Republic of Macedonia, a project on **training managers of small and medium size enterprises (SME)** was developed with the objective to enhance economic viability of SME through effective management. Certain economic criteria for SME participation (size of turnover, number of employees, etc.) were established. The ethnic component turned up when analysing participants' registration for the training. Subsequently, a promotion tour through the country was organised with announcements and information provided in Albanian and Macedonian languages and in respective language media.

Conclusion:

Although successful, the project could have had a higher impact on two fronts: 1) **possible increased participation of minority SME by lowering criteria for SME admission** to the training based on analysis of the minority SME; 2) **more inclusive recruitment process to enhance other smaller minority communities**.

Lessons learned include the potential need for: SME training specific to minorities; the encouragement of private employment; and a focus on access to economic development as a special needs aspect.

Through established indicators, the project revealed that no systemic minority mainstreaming was considered. The following elements relevant to minority mainstreaming were uncovered:

Table 1.5.1. Indicators for SME training in the former Yugoslav Republic of Macedonia

Results	Increased involvement of minorities (Albanian)	Improved skills of managers from minority community (Albanian)	Improved performance of SME (operated /owned by minority managers) (Albanian)	
Performance	number of managers trained	number of managers from Albanian minority trained	Missing participation from other minority groups	
Process	selection criteria for SME participations economic and geographical	information & awareness raising – media, language	trainers & language of training (oral) and written (materials)	promotion, recruitment and SME employment among minority communities
Source of verification	data on beneficiaries	donor analysis for similar projects	monitoring reports; project reports	statistical data (if available by <u>disaggregated minority</u>)

2. Project Cycle Phases and Tools Relevant to Minority Mainstreaming

In line with the **EC PCM Guidelines 2004**, also indicated in the EC Gender Toolkit (Chapter 4.2; 4.4; 4.5.1), **three phases of the project cycle - project identification stage, project implementation stage and project evaluation stage** - are particularly critical to considerations for minority mainstreaming inclusion, based on a quality frame of RELEVANCE, FEASIBILITY and EFFECTIVENESS
 ➔ *EC Gender Toolkit, Chapter 4.1.*

At all stages, appropriate tools will facilitate step-wise analysis to properly assess minority issues inclusion indicating when to use them and what the different steps in their application are. Each chapter introduces a set of relevant tools for a specific stage.

2.1 Project Identification Stage

This stage should reflect: whether minority issues are relevant and can improve the quality of the project and its delivery aspect for all groups of the society ; and whether it has adequate impact on social, economic and political developments (eg. conflict prevention). When gauging the relevance of minority issues, the following key considerations should be applied: **a) not relevant; b) indirect relevance (e.g., impact on majority-minority relations); c) direct relevance to minorities.**

A concise CHECKLIST is very helpful by asking the questions such as:

CHECKLIST

1. Does the project have a development component relevant to minorities?
2. Does the project impact key minority international and national commitments and rights (education; language; culture; media)
3. Who are the direct beneficiaries of the project (target sector/region/ municipality/groups)?

The steps under this stage include:

- Analysis of relevant international and national commitments (international & national legislation and formal/implemented regulations
- Problem analysis
- Stakeholders analysis

2.1.1 TOOL 1: *Minority Analysis in International and National Commitments*

This tool identifies major aspects of minority issues analysis in the context within which laws and institutions addressing minority issues operate and are based on:

2.1.1.1 Policies Involved

Through legal instruments, state measures and monitoring instruments the assessment should be conducted, whether the countries/entities of EAR operations

have/have not taken positive steps to ensure minority protection/exercise their rights:

- EC development and co-operation standard guidelines ➔ *Section 1 - 1.5*
- the requirements of the EU Race Equality Directive, as the definitive international standard for all EU member States, including the issue of equal access to justice ➔ *Section 3 - 2.1.1.5*

There are no clear EU standards, but the Council of Europe's Framework Convention on National Minorities and the European Charter for Regional or Minority Languages should be used as reference points ➔ *Section 1 - 1.3.2; Section 1 - 1.3.1*. In addition the measures taken by the State to ensure minority groups' right to develop and enjoy a distinct identity and international and national institutions dealing with or including minority aspects should be consulted ➔ *Section 1 - 4; Section 2 - 5*.

2.1.1.2 Methodology: Desk Analysis and Reality Check

The methodology applied is **the international** (whether the country is party to/ has ratified relevant standards) and **the domestic legal framework for minority provisions** (pointing out where it falls short of international – and particularly EU – standards) and the examination of how well this framework functions in practice.

2.1.1.3 Protection from Discrimination (including protection from racially motivated violence)

Since protection from discrimination is one of the few definite international EU standards, the requirements of the EU Race Equality Directive, including institutions for minority protection ➔ *Section 1 - 1.5.1*, are presented at a snapshot as an important commitment analysis tool, together with minority rights.

Protection from Discrimination

For each of the areas below, attention should be paid to the indicated conditions:

	Education	Social protection	Housing	Employment	Access to Justice	Racially motivated violence
Relevant non-discrimination legal provisions		Full and equal access to public, private healthcare	Full and equal access to adequate housing			Is there legislation prescribing sentencing for racially motivated violence and is it effectively applied?
Government programmes to combat discrimination and to promote full and effective equality	Are there facilities available for minorities ?		Are there specific facilities available in minority areas ?	Is there evidence of discrimination in access to employment? Are minorities disproportionately represented/ underrepresented in certain areas of employment? Do members of minorities get full access to unemployment and other work - related benefits?	What legal aid is available? Are members of minorities informed about their legal rights? Do minorities have access to justice in their languages ?	Are there special courts/measures for punishing racially motivated violence within the police and other law enforcement agencies? How do they function in practice ?
Critique voiced in reports by NGOs, commissions, experts	Existence of segregated, lower standard schooling for minorities; differentiated achievement among minority students; obstacles to full and equal access to education	Lower standards of public services in areas inhabited by minorities		Have there been any significant cases of discrimination against minorities ?	Minorities overrepresented in the prison system; subject to higher sentencing	

2.1.1.4 Minority Rights

Education	Do minorities have access to primary/secondary/tertiary education in the minority language? Is state language included in minority schools/education? Are state-funded schools sensitive to minority history and culture? Is there sufficient teacher training for minority teachers? What other measures have been taken by the state and by NGOs to improve or enhance education for minority groups?
Language	Are minority groups able to use their language in communication -- written and oral -- with public authorities; in local government; on public signs; in names and surnames; during judicial proceedings; at private events/functions/businesses. Are there any official restrictions on use of minority languages?
Participation in public life	Are there restrictions on access to citizenship? Are there formal or informal channels for ensuring minority participation in local/regional/national political bodies? To what degree is the minority group represented in public employment positions/civil service/military forces/government?
Media	Does the minority group operate their own private media outlets, including print, radio and television? Do these receive any state support? Are there any provisions for minority language/minority programming on state-supported radio or television? ¹¹²
Religion	Does the group enjoy legal and practical access to religious institutions? To practice their religion freely? To the same level of support accorded other religious groups?

112. www.kbs-frb.be Achieving media responsibility in multicultural societies: Resource pack; Information, practices, standards & recommendations; Minority Rights in practice in Southeast Europe

2.1.1.5 Institutions for Minority Protection

The objective of this analysis is to examine how well the institutions that are in place to ensure minority protection function in practice.

<p>Official Bodies EU Race Directive Council Directive 2000/43 (Section1, 1.5.1)</p> <ul style="list-style-type: none"> • Protection ... should be strengthened by the existence of a body or bodies in each Member State... (art.24) <p>http://ec.europa.eu/employment_social/fundamental_rights/pdf/legisln/2000_43_en.pdf</p>	<p>Note whether the government has established:</p> <ol style="list-style-type: none"> 1. a body or bodies for the promotion of equal treatment of all persons without discrimination on the ground of racial or ethnic origin, in conformity with the requirements of the EU Race Directive. 2. the existence of any other institutions (ombudsman, commissions, special government ministry/department for minority issues, special advisory bodies, etc) 3. how well each institution functions as a mechanism to develop, implement and evaluate the effectiveness of government policy for minorities. 4. Are there mechanisms to ensure structured and meaningful participation of minority representatives on these bodies? 5. How well does it reflect the needs/concerns of the minority? 6. Is it comprehensive (does it address both non-discrimination and minority rights)? <p>Are minorities involved in implementing and evaluating it?</p>
<p>Civil Society EU Race Directive Council Directive 2000/43</p> <ul style="list-style-type: none"> • Encourage dialogue with non-governmental organisations (art. 23) <p>http://ec.europa.eu/employment_social/fundamental_rights/pdf/legisln/2000_43_en.pdf</p>	<p>Does the relationship between the government and civil society organisations dealing with minority issues reflect:</p> <ol style="list-style-type: none"> 1. To what extent does the government foster/hinder the development of these organisations and encourage an independent voice in these organisations, and act upon their criticism/recommendations? 2. To what extent do activities and projects undertaken by civil society organisations complement programmes and policies undertaken by the government? To what extent do they critique/seek changes in government policy? 3. Have civil society organisations themselves succeeded in presenting a united front to the government on key issues of common concern to all of them and that they have something to offer to development/implementation of government policy?

2.1.2 TOOL 2: *Problem Analysis*

The value of problem analysis lies in its negative identification of aspects of an existing situation and establishes the cause-effect relationship between the problems identified (gap analysis is similar to problem analysis, yet provides concrete remedies and recommendations for problem solving). Problem analysis is most useful in the identification and formulation phases of programmes. It can also include preliminary budgeting (cost of analysis and solutions proposed).

2.1.2.1 Steps of Analysis and Key Concerns:

- definition of framework and subject of analysis
- identification of major problems experienced by target groups
- shared identification of problems with other projects (peer review of programming)
- difference in problem identification (diverse needs?)
- source of problems: internal problems stemming from project design and/or implementation; external problems (state commitments, general situation of the country/region)
- effects of problems on minority situation and inclusion

2.1.2.2 Working Option Choices for Internal and External Problems

2.1.2.2.a Internal Problems

When programming, inadequate consideration of minority issues can stem from various fields but can be amended by:

- adjusting project design to reflect minority concerns → *Section 3 - 1.5.1*
- adjusting project implementation
- revising project funding → *Section 3 - 4.1*
- additional initiatives → *Section 3 - 2.3*
- amendment of internal agency policy (e.g., peer reviews, focus groups)

To address internal problems, **focus groups** consisting of the EAR staff in a country office could be created. The key advantage of the focus group is its usefulness in initial concept exploration, evaluation and programme review and are most appropriate to get a sense of regional, gender and ethnic differences in opinions, obtaining inputs and propose modifications for the proposals. Since the format of focus groups is flexible (participant Q & A sessions), this method is simple for allowing a quick grasp of the purpose and process. The focus group method improves the synergy and success/sustainability of the final project design.

2.1.2.2.b External Problems

These problems usually stem from the environment in which projects function. They can be addressed in different ways, most commonly by being identified either at the source of the problem or by applying remitting measures, such as additional assistance:

- levels of solutions – legal, implementation, international, central, local
- assistance required – external (international, local); internal (normative acts, directives, redistribution of funds, administrative measures)
- no solutions available in the existing context

2.1.2.3 Methodology

- field work (interviews and questionnaires, expert studies, mapping)
- gap analysis and overall needs assessment

2.1.2.4 Case Study for Problem Analysis - Legal Aid Clinic in Kosovo

During the implementation of legal reform, it was obvious that access to justice was limited for the local population. This was due to lack of qualified lawyers in their local area, malfunction of the courts, limited financial resources and lack of legal awareness. A net of mobile legal clinics providing free of charge legal advice was set up with the Albanian language as the communication medium, excluding non-Albanian speakers. According to the Race Directive, states are required to ensure access to legal help and defense → *Section 1 - 1.5.1.*

Steps of analysis and key concerns: The framework for the project was legal reform, aiming at efficient access to justice. The major problem was inefficiency of the legal system and low confidence of the population. In the court system in particular, minority groups had limited access to legal advice.

In terms of overall analysis, one could state that there was: 1) a reduced impact of the law reform, with many cases unsolved as courts were lagging behind with the decisions; 2) reduced observance of internationally and nationally committed rights; 3) reduced confidence in the justice system perceived as discriminatory.

Working options: **Internally**, the project was re-designed to cover groups other than Albanian speakers; the implementation was adjusted to provide mobile clinics to other areas. **Externally**, the project was discussed with the local bar association and the courts to improve their performance by providing additional funding for minority clients services.

Solutions applying methodology: Since from its onset, the project design did not include minority considerations, and neither a needs assessment nor a gap analysis was performed, it was adjusted afterwards when the problem analysis was performed.

2.1.3 TOOL 3: Stakeholder Analysis

All parties to the programme/project should be involved in the programming process as they represent diverse interests, perceptions and capacities. Therefore, it is important to identify where the resources are, how they should be distributed and for which purposes. A stakeholder analysis should be conducted **at all levels – macro, meso and micro** → *Section 3 - 1.4* to ensure that stakeholders at all levels are interested in the success of the project.

Out of this analysis, a picture may emerge about specific problems, practical needs and possible contributions from each stakeholder (funds, skills, time, etc.). Inputs coming from stakeholders raise awareness on related issues and provide a framework for prioritizing needs.

Stakeholder analysis can be conducted at three major levels of involvement:

- institutions and implementers
- recipients and beneficiaries, groups and individuals
- capacities of stakeholders

2.1.3.1 Sources

- International standards/conventions on minority protection → *Section 1 - 4-4.5*
- Anti-discrimination laws/statutes; laws on minority protection → *Section 1 - 4.1-4.5*
- Government programmes or policies for minority protection → *Section 2*
- Reports of monitoring :
 - International bodies reviewing minority protection in the country (particularly, the UN committees (CERD, HRC, CEDAW, CAT, CRC), and the Council of Europe's ECRI) → *Section 1 - 1 reporting*
 - Government reports and responses to the above international bodies
 - Reports of international and domestic NGOs on minority protection in the country → *Section 2*

2.1.3.2 Methodology

Stakeholder analyses methodology offers several options: from setting up matrices and conducting SWOT analysis to Venn and Spider diagrams → *EC Gender Toolkit, Section 1, Tool 6.4*. Yet, for quick and informal analysis, a **focus group** can be established along with a **mapping exercise**.

2.1.3.3 Case study - Waste collection in suburban municipality of Skopje

The local government would like to improve the environment in a suburban municipality by upgrading waste collection. The waste should be initially segregated and deposited in closed areas. To prepare for the initial project draft and for proper response from the population, a mapping exercise was conducted in one central and one peripheral district of the municipality. The mapping revealed that in peripheral districts the population was mostly rural migrants from various ethnic groups, including a large Roma population. They had conflicting interests in upgraded waste collection, as many of them made a living in retrieving waste for recycling. The local government considered upgrading waste collection only in central districts to avoid confrontation. Though such an action would be perceived as a discriminatory practice, against international and national commitments, similar cases are being reported by national NGOs. A focus group was established consisting of local institutions, recipients and beneficiaries to find a solution. A private truck company, which was to collect the waste, was also involved. The analysis demonstrated that all stakeholders were interested in waste collection but from various angles: the local government, to improve the environment and to offer services equally to all districts; the truck provider, to get as much waste collection as possible; minority groups, to preserve their source of income and get official jobs as deposit workers. The final project proposal had to include the variety of positions and appropriate measures to make the project a success.

2.2 Project Implementation Stage

This stage allows for review of progress towards achieving project objectives that reflect minority aspects in the activities, outputs and outcomes. At this stage, corrective measures can be applied if there are deviations in the implementation, e.g., a need for additional political action (discussions with national/local governments) or a need for additional resources (human and financial resources) or general project adjustment.

2.2.1 **TOOLS** - Indicators and Mapping

Two effective tools can be successfully used during this stage to measure progress in the implementation: minority-sensitive **indicators** ➔ *Section 3 - 1.5* and **mapping** as descriptive and diagnostic verification ➔ *Section 3 - 2.1.3.2*.

2.2.2 Methodology

- Reviewing established indicators
- Reviewing and revising mapping as a secondary source of information; in monitoring activities, changes can be recorded on maps

2.3 Project Evaluation Stage

When monitoring and evaluating project progress and results, the project evaluation stage allows for reflection of whether the established targets have been met, whether new aspects surfaced during the implementation and, if so, how they were tackled.

At this stage the reflection of relevance to minority inclusion could be assessed through:

- **Internal evaluation** – to assess the achievements of the project as planned, including minority aspects (indicators for non-discrimination, minority rights, inclusion). Final mapping can be used to establish status of actual changes, perceived costs and benefits of the changes that have taken place → *Section 3 - 3.3.*
- **External evaluation** – evaluators familiar with minority issues and their appraisal of impact on qualitative project results and added value such as socio-cultural impact (as most EAR projects will not target minorities directly). Only very few reports relating to Southeast Europe are available.¹¹³ → *Section 3*, and even fewer relate to cross-cutting issues such as gender and ethnicity/minority in Europe. Yet, some World Bank studies were conducted in Asia.

2.3.1. TOOLS

- Revisiting Indicators → *Section 3 - 1.5*
- Revisiting Stakeholders Analysis → *Section 3 - 2.1.3*

3. Including Minority Issues References in the EAR Project Documents (Project Fiche and Terms of Reference)

A general assumption for minority mainstreaming is to include it when it is relevant and justified by the analyses conducted using appropriate tools within particular sectors. Recognizing that, in the EAR operations' geographic area, mainstreaming of minority aspects calls for specific attention, e.g., how minority aspects inclusion may affect majority-minority relations, minority rights and an overall democratic development perspective. In some countries (the former Yugoslav Republic of Macedonia, Montenegro, Serbia and the province of Kosovo) majorities look upon minorities as a "disturbing" element, and since EAR programmes are negotiated with governments (national and local), some sensitivity to formulations should be adopted. On the other hand, minorities are citizens of the countries and as such are

113. See www.worldbank.org, publication online: Ethnic groups, Gender and Poverty Eradication, Dec. 2004

part of the overall development. Therefore it is necessary to give minority inclusion careful thought and to address them through relevant EAR internal processes: **inter-sector meetings; sector meetings meetings between stakeholders and project managers, contractors and consultants; and external processes.** Here, **impact monitoring** analysis, orienting the project along **socio-cultural lines**, will complement more technically and/or economically oriented monitoring. Thus more synergy will be created between projects and, using this methodology, the inclusion of minority aspects in EAR project documents will reflect a conscious and relevant approach to mainstreaming.

3.1 Project Fiche (PF)

Project Fiche is one of the key documents in EAR programming. While PF provides the legal framework for the ToR, it includes directions on minority mainstreaming through relevant chapters and paragraphs:

3.1.1 Project Fiche Entry Points

Paragraphs	Entry Points
cross-cutting issues	in relation to other cross-cutting issues such as gender, environment, etc.
strategic framework paragraph	to conduct minority analysis for the sectors
donor coordination	to look at other IOs' activities in the sectors
context	to include relevant elements of the minority analysis (also to transport into the ToR)
country co-operation	national and international standards and their implementation (possible recommendations)
sector context	a stakeholder analysis and co-operation/information to both majority and minority groups
description /objective	including impact on /benefit to minority groups
expected results and activities	consider whether: main activities may have impact on minority groups; minority considerations are reflected in them; there is a need for additional actions/activities targeting minorities
target groups	minorities to be included if relevant
monitoring	establish minority sensitive/specific indicators if relevant

3.1.2 Case Study of Minority Mainstreaming in the PF

One of the key considerations for minority inclusion is good governance. Typically, a local government is the vehicle of delivery of services (healthcare, education) and goods (utilities) to the population. On the other hand, a local government's agencies are those units through which minority groups' access to the services is most direct. Improving the development of municipal level programmes by mainstreaming minority issues into daily work will improve the quality of delivery and sustainability of local governments. To demonstrate **how minority issues can be mainstreamed into a sector of public administration (reform)**, a PF on decentralisation and local government reform in Kosovo has been analysed (DAC 15040). This PF already attempts to **incorporate gender and minority issues**, although in a formal (superficial) way in some paragraphs.

Paragraphs	PF Original	PF with Minority Issue
1.1. Strategic framework	Standards for Kosovo <i>"ensure availability of public services without discriminatin to all communities"</i>	Possible addition "without discrimination to gender and/ or ethnic origin"
1.2. Lessons learned	Recommend the strengthening of municipal capacity for delivery	Indicate which issues require improved capacity, e.g., gender & minority inclusion
1.3. Complementary actions; 1.4. Donor co-ordination	Brief listing of donors involved and their overall focus	Include focus on EAR's & other donors' cross-cutting issues, gender & minorities
2. Kosovo context 2.1. Co-operation related policy of Kosovo	Local & central government and international representation indicating statements to promote standards of performance in relation to gender balance & minority inclusion	Positive indication. It could also include women-minority organisations as partners
2.2. Sector context	Deficiencies indicated, need for dialogue with civil society e.g., minorities, although women not mentioned; improved communication between central-local governments	Recognition of minority inclusion improvement

3. Description 3.1. Objectives (3) ;	To build the capacity of a selected number of municipalities; to design and implement development strategies; to improve the quality of public services	To build the capacity of a selected number of municipalities as models to design and implement in non-discriminatory approach development strategies
3.2. Expected results – Support to selected municipalities	Municipalities will be chosen ...according to criteria such as...commitment to <i>Standards for Kosovo</i> ... which ensure..the availability of public services to minority communities .	Equal availability/access
3.3. Stakeholders	Only official government Bodies are indicated as recipients.	Relevant beneficiaries such as civil society, women and minority organisations
3.6. Cross-cutting issues	<ul style="list-style-type: none"> • gender equality and social inclusion of minority groups ...data disaggregated along female/male • ... to promote human rights and gender equity 	<ul style="list-style-type: none"> • data disaggregated by minority groups • to promote human and minority rights as well as gender equity
4. Implementation issues 4.4. Performance monitoring	<p>The most important key indicators for measuring progress:</p> <ul style="list-style-type: none"> • substantial number of policy guidelines developed, adopted and implemented • a cadre of well trained municipal staff 	<ul style="list-style-type: none"> • substantial number of policy guidelines including equal distribution and access... • a cadre of well trained municipal staff attempting gender and minority balance

The **indicative checklist for guiding principles and core concerns** to be considered:

CHECKLIST

1. *Participation and ownership* – all relevant stakeholders identified and included
2. *Transparency* – decentralisation and local government reform information flow to relevant groups about project, its expected results and risks
3. *Non-discrimination* – promotion and protection of rights with net gain for all, free from discrimination
4. *Conflict prevention* – increased confidence of beneficiaries

3.2 Terms of Reference (ToR)

This document indicates all modalities of the project and includes labour division, tasks and skills required from contractors. It provides an overall frame for instances of project design, budgeting, solicitation, implementation, monitoring and evaluation. Due to its nature, it is the key document to include minority issues mainstreaming in a most relevant way. In the table below, an indication of guiding principles is provided on where and how to take minority mainstreaming into consideration.

Paragraphs	Entry points
Country background	Indicate ethnic composition /minority analysis
Sector analysis	Relevance/impact on minorities/stakeholders
Donor co-operation	Other donors involvement with minority issues – EAR role in that context (how EAR programmes may complement others' programmes)
Objective	General – mention inclusion/impact on minorities Specific – if necessary, mention minority groups (also as beneficiaries)
Results	Include impact/direct relevance to minorities; minority involvement; specific minority indicators
Assumptions and risks	Reference to national minority regulatory frameworks (country - relevant minority analysis); stakeholder analysis
Tasks and activities	Staff training on minority aspects (impact, indirect/direct relevance); instances of discrimination; consultations with civil society groups and possible inclusion of minority representatives
Project management	Include, if relevant, minority representatives in management, in providing expertise, and monitoring/assessment
Monitoring	Establish minority - sensitive relevant indicators, including statistical data; achievable results
Special needs	Possible recommendations

3.2.1 Case Study of Minority Mainstreaming in the ToR

This case study analyzes the project on Institutional Support to Water Companies in Kosovo (04KOS01/08F2) from the infrastructure/environment sector, which is less obvious for directly targeting minorities. On the other hand, the water supply, in principle being a utility provided to all groups of a population, can become a highly politicized and conflict provoking/exacerbating issue regarding majority-minority relations if not carefully appraised. Utilities are goods with recoverable revenues. Making them an economic issue for the users means impacting all vulnerable groups, among them disadvantaged members of minorities. The analysis below demonstrates how minority mainstreaming can be reflected in such a ToR document:

Paragraphs	ToR Original	ToR with Minority Issue
1.2. Relevant country background	Recent UNHCR describes it (i.e.Kosovo) as 90% Albanian and 7% Serbs. Approx. 2/3 of population is rural	..as ethnically mixed with predominant Albanian population but also other ethnic groups (indicate who and where)
1.4. Related programmes and other donor activities	Institutional development in central and northern areas, replacement of network in Mitrovica	minority populated mainly Serb populated
2. Contract objective	To provide citizens, enterprises /public institutions of Kosovo stable water service at affordable prices	To provide all population of Kosovo stable water services at affordable prices
3. Assumptions and risks 3.1. Political constraints on political/ethnic parameters 3.2. Risk – Lack of qualified staff; Staff turnover; Sustainability of results	In Mitrovica a genuine will to improve the co-operation between southern and northern part will be offered Risk reduced by training of administrative staff	A genuine effort will be made to improve co-operation between the southern and northern part of Mitrovica, 1.4 including all stakeholders Risk reduced by training of administrative staff, especially local staff, in respective language to reduce turnover and improve sustainability and local co-operation (offer additional training/vocational training?)
4.1.4. Direct management support	Missing chapter on transparency, ownership; information to beneficiaries to improve revenue is included	Information campaigns for utility users in resp. Languages initiated to obtain co-operation and revenues

6.1. Requirements personnel	All experts are technology/finance/management profiles; only billing staff requires language skills in Albanian or Serbian	Key experts with working experience in multi-ethnic setting, language skills in local languages an asset
6.4. Incidental expenditure	Technical training/twinning contact	Establishing relations across ethnic divides
7. Reports: Inception – finding and changes	Missing indication of recipients and beneficiaries response across/along ethnic lines (one of high risk areas)	Responses from various ethnic groups to the activities as one of high risks to sustainability of the project
8. Monitoring & evaluation	A set of technical indicators established, no indicators related to utility users	Include indicators on utility users

A general comment related to minority mainstreaming in this project is that although stated in the Assumptions and Risks of the ToR **that minority-majority relations, in particular minority response, constitute a high risk area for the success and sustainability of the project, no follow-up on minority mainstreaming** was included in further chapters of the ToR.

The **indicative checklist for guiding principles and core concerns** should include:

CHECKLIST

1. Organisational capacity – management of finances and service delivery offering incentives for all groups, in particular minority groups to participate and to benefit
2. Participation and ownership – relevant stakeholders and problems identified and concerns taken into account
3. Non-discrimination – benefits from the project free from discrimination
4. Transparency – information about the project and its risks through respective language media

4. Budgeting for the Inclusion of Minority Issues in EAR Projects

4.1 How to Ensure Adequate Budgeting

As in gender budgeting ➔ *Gender Toolkit, Section 1 - 6, 6.12*, even smaller funds designated for minority mainstreaming can make a big difference, ensuring the success and sustainability of the project. If properly analyzed through the application of the tools presented, the programming and the implementation of a project will achieve its **ultimate goal** – to **stabilize inter-ethnic relations** and to prepare a solid ground for **sustainable development** based on **equal opportunities** for all citizens of the countries, regardless of their ethnic origin. The approach should include:

- Proper policy appraisal – explicit and implicit relevance for minorities (stakeholder analysis)
- National guidelines for allocations and expenditures impacting minorities
- National administrative guidelines on procedures – scrutiny for accountability and transparency
- Willingness to add extra resources to build capacity (on-the-job training, etc); special incentives for contractors to include minority groups (i.e., RAE)
- Specific evaluation on minority inclusion (if relevant)

When budgeting for projects/programmes, **four project cycle phases** are critical to **adequately budget and control the flow of resources**, indicating **effectiveness** and efficiency of project delivery. As some minority issues may require special analysis (e.g., RAE specific needs in employment /education situation), separate financial provisions should be considered:

- **Identification:** Does the project require explicit minority mainstreaming and at what potential costs? How is the minority approach included/absent in national policies/EAR policy ➔ *Section 1 - 2.2*? Can EAR share costs with governments or international/national organizations?
- **Formulation:** Do the problem analysis and stakeholders analysis require additional resources or can they be conducted as an overall assessment with a conscious approach?
- **Implementation:** Is there a need for extraordinary effort when implementing a project with a minority mainstreaming aspect? Do established project indicators reflect a need for a specific budget, or not? Are the extra resources designated for minorities used accordingly and efficiently? What are the corrective actions needed?
- **Evaluation:** If an evaluation is conducted by external bodies – is there a need for experts on minority issues to reflect proper mainstreaming in the project?

4.2 Budgeting Levels

In the EAR operations countries, budgetary funds of governments are often very limited not only to cover national action plans related to minority issues but also to provide necessary human resources to enhance minority governance. One way of amending such deficiencies is to **provide secondments to the key governmental bodies** such as inter-ministerial committee or relevant ministries. An additional support to **Minority Councils**, or similar institutional/civil society organisations acting as advisory to those bodies to improve minority participation, could be budgeted for ➔ *Section 2 - 1.3.1, 2.3.3, 3.3, 4.3.3.*

4.2.1 National Level - National Strategies

As demonstrated in the Hungary accession case ➔ *Section 1 - 3.1.3*, governments develop various approaches and strategies to enhance minority issues and to allocate respective funds:

- Inter-ministerial approach - to identify coordination body and its financial resources
- Line Ministries – to indicate the ways and guidelines for inclusion of minority issues and to allocate respectively adequate resources
- Sectors - to establish concrete priorities for development including minority relevance or impact on minorities
- Institutions – to provide analysis/input/monitoring relevant to minority inclusion

4.2.2 Regional & Local Level

Pending devolution of central authority and redistribution of tasks, self-governance and forms of power-sharing (formal autonomy, high level of decentralised decision-making), the region and local governments can make their own decisions on how to use available financial resources in relation to:

- Level of decentralisation, local governance and local revenue
- Local accountability and transparency
- Specific development needs and local responses

Such decisions will allow for establishing priorities for proper inclusion of minority issues according to national commitments.

4.3 Budget Formulation for EAR programming

At the project level, some preliminary assessments for costs can already be made at the project identification stage. Based on indicative minority data profile, needs assessment for minority inclusion through public expenditure analysis (financial excuses are the most common arguments for not including minority aspects → *Section 2*) and through mapping, budgeting can take into consideration:

- inclusion and reflection of government strategies and plans and the voiced needs of the population, including minorities → *Section 1 - 1.5.3*
- focussing on equal access to resources → *Section 1 - 1.5.1*
- Government's priorities and commitments to allocate funds to specific EAR targeted measures
- Accountability to international commitments and national commitments (**adopted standards are often aspirations not facts**)
- EAR strategic programmes for individual countries and sectors

Conclusion

Focus on particularly disadvantaged groups and their specific needs (e.g., Roma, small minorities in peripheral regions, minority women, minority elderly and other less vocal groups) → *Section 3 - 1.5; Section 2 - 2.3.3* requires that adequate resources are allocated, making minority issues implementable. Declarative statements on minority inclusion not supported by financial means will remain empty shells and will lead to dissatisfaction and frustration, obstructing inclusion and true participation in democratic development.

MINORITY ISSUES MAINSTREAMING



INTRODUCTION

SECTION ONE

SECTION TWO

SECTION THREE

GLOSSARY

GLOSSARY

Adverse impact: A significant difference in patterns of representation or outcomes between racial groups, with the difference amounting to a detriment for one or more racial groups.

Affirmative (positive) action: The general designation for a wide range of programs designed to overcome the effects of past discrimination and to provide equal opportunity for historically discriminated against groups, especially African Americans and women. The U.S. Commission on Civil Rights defined affirmative action in 1977 as “...any measure, beyond simple termination of a discriminatory practice, adopted to correct or compensate for past or present discrimination or to prevent discrimination from recurring in the future.”

Article 13: Article 13 of the EC Treaty provides a legal basis for the adoption of Community measures to combat discrimination on the grounds of sex, racial or ethnic origin, religion or belief, disability, age and sexual orientation, thus extending Community competency in the field of equality beyond the grounds of sex and nationality, and reflecting the fundamental Community principles of equality and non-discrimination.

Assimilation: The process whereby a minority group gradually adopts the customs and attitudes of the prevailing culture.

Burden of Proof: ‘Members States shall take such measures as are necessary, in accordance with their national judicial systems, to ensure that, when persons who consider themselves wronged because the principle of equal treatment has not applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the principle of equal treatment’ as set out in Article 8 of the Race Directive.

Confidence Building Measure (CBM): Changes made to reduce the feeling of insecurity in a region of potential or actual conflict in order to help both parties have trust in the peace process; “to reduce the ‘dangers of armed conflict and of misunderstanding or miscalculation of military activities which could give rise to apprehension....’”¹

Conflict Prevention: A wide range of policies and initiatives aimed at avoiding the violent escalation of a dispute, typically involving such measures as: monitoring, coordinating interventions, starting initiatives to focus on both root and proximal

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1. CSCE, now OSCE, <http://www.state.gov/t/ac/trt/4725.htm>

causes, establishing early-warning systems and institutionalizing the idea of violence prevention at local, regional and international levels.

Conflict Resolution: The ending of a conflict through satisfactorily addressing the proximal and underlying causes of the conflict.

Delegation: A group of representatives or delegates sent on behalf of an organization.

Discrimination: one person, or a group of persons, being treated less favourably than another on the grounds of racial or ethnic origin, religion or belief, disability, age or sexual orientation (direct discrimination), or where an apparently neutral provision is liable to disadvantage a group of persons on the same grounds of discrimination, unless objectively justified (indirect discrimination).

- **Direct:** occurs “where one person is treated less favourably than another is, has been, or would be treated in a comparable situation on grounds of racial or ethnic origin”. (Article 2 (2)(a) of the Race Directive)

- **Indirect:** occurs, “where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary”. (Article 2 (2)(b) of the Race Directive)

- **Reasons for:** European anti-discrimination policy covers the following grounds: sex, racial and ethnic origin, religion and belief, disability, age and sexual orientation, both within and beyond the labour market.

Diversity: The acceptance that people from different backgrounds, languages, ethnicities and religious orientation have the right to exist in a mixed community with equal right to security, dignity and opportunity.

Early Warning: Systems designed to provide early warning of outbreaks of violence, through diplomatic, signals or intelligence based monitoring.

Employment Framework Directive: Prevents people in the European Union from being discriminated against on grounds of race and ethnic origin on grounds of religion or belief, disability, age or sexual orientation

Empowerment: The process of gaining access and developing one’s capacities with a view to participating actively in shaping one’s own life and that of one’s community in economic, social and political terms. (European Commission, 1998)

Equal Opportunities Action Plan: A practical and realistic plan, with an agreed timetable and targets, showing how an employer is planning to achieve the aims of an equal opportunities policy.

Equal Opportunities Policy: A statement of an organisation's commitment to the principle of equality of opportunity. The policy should include what the organisation intends to do to prevent unlawful discrimination and promote equality of opportunity and good race relations between people from different racial groups.

Ethnic Cleansing: The systematic elimination of an ethnic group or groups from a region or society, as by deportation, forced emigration, or genocide.

Ethnic Group: Group that regards itself or is regarded by others as a distinct community by virtue of certain characteristics that will help to distinguish the group from the surrounding community. Characteristics: A long shared history, of which the group is conscious as distinguishing it from other groups, and the memory of which it keeps alive; A cultural tradition of its own, including family and social customs and manners; A common geographical origin or descent from a small number of ancestors; A common language, not necessarily peculiar to the group; A common literature, peculiar to the group; A common religion different from that of neighbouring groups or from the majority population; A minority or being oppressed by a dominant group within a larger community.

Ethnic Tensions: A state of increased risk of violence or dispute between ethnic groups, not necessarily involving the dominant regional group.

Framework Convention for the Protection of National Minorities: The first ever legally binding multilateral instrument devoted to the protection of national minorities in general, developed by the Council of Europe in 1998 with 36 states currently party to it.

Fundamental Rights: The Charter of Fundamental Rights of the European Union is a document signed on December 7th 2000 in which the fundamental rights of all citizens of the European Union are outlined. The document is drawn from the universal values found in European tradition as well as the universal values of democracy and multiculturalism.

Good Governance: Government practices that result in the effective achievement of objectives through such means as inclusiveness, transparency, responsiveness, accountability, equity and strategic planning.

Harassment: Harassment is any unwanted physical or verbal conduct that offends or humiliates others. Such conduct can interfere with your ability to do a job or obtain a service. Harassment is a type of discrimination. Harassment shall be deemed to be a form of discrimination when unwanted conduct related to any of the grounds takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment. Harassment can consist of a single incident or several incidents over a period of time. It can take many forms, such as: threats, intimidation, or verbal abuse; unwelcome remarks or jokes about subjects like your ethnicity, religion, disability or age; displaying racist or other offensive pictures or posters. (European Commission).

Human Rights Commissions: A human rights commission is an independent body, mandated to ensure that human rights laws are applied effectively and to protect people from discrimination and abuses of human rights. A commission may also monitor or review the government's human rights policies and implementation of international standards, and raise awareness of issues. A commission may hear complaints about human rights abuses and have investigative powers.

Human Rights Violations: Transgressions by states against the human rights of individuals or groups. Transgressions by non-state actors are usually known as *human rights abuses*. Violations may be gross *human rights violations*, which are very serious violations, which severely reduce the subject's ability to survive, such as murder, abduction, slavery, ethnic cleansing or torture.

Implementation: The act of putting a plan into action.

Institutional Racism: Those forces, social arrangements, institutions, structures, policies, precedents and systems of social relations that operate to deprive certain racially identified categories of equality.

Internally Displaced Persons (IDP): "Internally displaced persons are persons or groups of persons who have been forced or obliged to flee or leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border".²

2. Reliefweb, <http://www.reliefweb.int/idp/docs/references/DefinitionIDPs.pdf>

Integration: An inter-dependent combination of equality, interaction and participation.

Legislative Framework: A series of laws that relate to one general theme or area.

Mandate: A document giving an official instruction or command, or also legitimation to hold a position of authority or command through appointment or election.

Marginalization: The process whereby a group or a sub-group of a society which exhibits characteristics considered undesirable by the mainstream are pushed out to the margins of society where they are denied equal opportunity to, for example, prosper, claim rights, be heard or expect equality before the law.

Monitoring: A process that involves collecting, storing, analysing and evaluating information, to measure performance, progress or change. Monitoring racial equality involves collecting, storing, analysing and evaluating information about the racial groups to which people say they belong.

Minorities: A relatively small group of people differing from others in the society of which they are a part in race, religion, language, political persuasion, etc. (Oxford Dictionary)

- **External:** Minorities that, while living on the territory of one state (host-state) are the ethnic kin of the titular nation of another, often neighbouring, state (kin-state).
- **Indigenous:** Ethnic groups living in their ancestral homeland that is on the territory of just one state of which they are not the titular people.
- **Linguistic:** The world has chosen to protect the mosaic of human diversity by placing priority upon the preservation of the constituent aspects of culture by allowing minorities to speak their languages and practice their religion.
- **National v. Ethnic:** European instruments tend to mention ‘national minorities’ (FCNM), where international documents refer to ‘ethnic minorities’.
- **Racial v. Ethnic:** Initially, the League of Nations minority protection system used the criteria of ‘race’, ‘language’ and ‘religion’. This was further abandoned by the UN Sub-Commission who decided in 1950 to systematically replace the term ‘racial’ by ‘ethnic’ when mentioning minority groups. This replacement was justified by the fact that the criteria ‘racial’ referred to physical features and could not be scientifically justified. On the contrary, the term ‘ethnic’ was broader and comprised biological, cultural and historical characteristics.

- **Religious:** Freedom of religion—or the right to freedom of expression and belief—has been embedded in human rights law since it was first enshrined in the 1948 Universal Declaration of Human Rights and then in the 1966 International Covenant on Civil and Political Rights. The European Convention for the Protection of Human Rights and Fundamental Freedoms also protects religion as developed through the case law of the European Court of Human Rights.
- **Transnational:** Ethnic groups whose homeland stretches across several different states without their forming the titular nation in any one of them.

National Equality Bodies: All Member States are required, according to the European Community’s Racial Equality Directive of 2000, to designate “National Equality Bodies” for the promotion of equal treatment. The bodies are expected to provide independent assistance to the victims of discrimination, conduct surveys and studies, and publish independent reports and recommendations. While the legislation refers specifically to bodies concerned with racial discrimination, many countries have also decided to set up bodies that will cover other grounds of discrimination. In addition, victims of discrimination can be supported by a non-governmental organisation or a trade union that have a legitimate interest.

National Human Rights Institutions: A national human rights institution (NHRI) is an administrative body, often established by a state constitution, specifically mandated with the promotion and protection of human rights in the state. It is, therefore, a key institution for protecting citizens’ rights in a democratic society. The 1991 UN “Paris Principles” make recommendations for the establishment, mandate and status of NHRIs. Best practice requires compliance with the minimum conditions set out in these principles, including political and financial independence, a constitutional or legislative foundation for the institution and guarantees of pluralist representation. The Paris Principles also include recommendations for the institution’s mandate and scope of functions.

Nationality: An aspect of a person’s identity conveying rights and duties, and defined by a specific legal relationship between an individual and a state, through birth or naturalisation, which is recognised by that state. Nationality ‘is the legal bond between a person and a state’ which ‘does not indicate the person’s ethnic origin’. (Article 2 of the European Convention on Nationality)

Ombudsman Institutions: An Ombudsperson is an alternative dispute resolution mechanism, offering free, confidential, non-judicial and flexible complaint-handling services. The ‘classical’ form of an Ombudsman institution is a public office established and funded by the legislature, hearing citizens’ complaints and ensuring that the public administration is held accountable for its actions. The Ombudsman institution can provide a quick and effective remedy for members of the public against alleged occurrences of maladministration by government entities. Even without specialization, the general nature of the Ombudsperson’s task of protecting citizens’ rights means that Ombudspersons with a general jurisdiction covering administrative matters are often involved in minority issues. It may thus offer a remedy for members of minorities.

Organization for Security and Co-operation in Europe (OSCE): The world’s largest security organization, with 55 member states in Europe, North America and the CIS. It “is a primary instrument for early warning, conflict prevention, crisis management and post-conflict rehabilitation”³ in the European area.

Political Legitimacy: The degree to which other parties consider the power holder of a state to be the rightful power holder.

Political Participation: Provisions for political participation of minorities range from the local level (e.g., school boards) to the national governments. At base, there is civil society mobilization. Minority NGOs can be brought together with other groups to advocate common interests in a cooperative and more effective manner. Then there is the design of local government to ensure that minorities are fully represented in all relevant decision-making bodies. Similarly, special provisions may have to be made at regional or even national levels to ensure that government bodies, the legislative and executive, are fully representative of all communities. This may require the sensitive drafting of electoral laws, decision-making procedures that respect minority views, and a proactive commitment to ensure access to public services for members from all groups.

Racial Equality Directive: Prevents people in the European Union from being discriminated against on grounds of race and ethnic origin.

Ratification: The process of formally approving something. It normally refers to the process where national governments formally approve, or agree to follow, an international treaty.

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3. OSCE website, http://www.osce.org/publications/sg/2004/11/13554_53_en.pdf

Safeguard: A measure designed to protect against, or prevent, abuse.

Segregation: Segregation on racial grounds is automatically regarded as treating the segregated person less favourably than others. It constitutes unlawful direct racial discrimination.

Specialized Bodies: There is a trend towards the increasing specialization of ombuds institutions, e.g., for privacy, consumer rights, children's rights, etc. Many 'newer' ombudsman institutions are in fact labeled "Human Rights Commissioner", referring directly to a special mandate. For its part, the European Commission Against Racism and Intolerance recommends that states establish specialized bodies and legislation to combat racial discrimination. Two non-discrimination Directives mirror that obligation (2000/43/EC, 2000/78/EC). Only a few European states have established specialized Ombudspersons for the protection of minorities.

Social Exclusion: Marginalization from employment, income, social networks such as family, neighbourhood and community, decision-making processes and from an adequate quality of life.

Stability Pact for Europe: Launched at the initiative of the EU and signed in Cologne on 10 June 1999, which aims to anchor peace and democracy in South East Europe also pays great attention to the respect for minorities.

Stereotypes: A stereotype is a popularly held belief about a type of person or a group of people which does not take into account individual differences.

Universal Declaration of Human Rights: This declaration is a non-legally binding United Nations declaration that was brought into effect by an unopposed resolution in the UN in 1948. As it is not a legal document, there are no signatories, but nevertheless it can be used to exert powerful moral and diplomatic pressure on states that violate the principles.

Value: A principle, standard, or quality considered worthwhile or desirable. Shared Values are those values held in common by a group, ethnic group or nation e.g. Belief in democracy, diversity and the rule of law are shared values of the nations in the European Union).

